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LOK SABHA

The following Bills were introduced in Lok Sabha on 29th February, 1964:—

BILL No. 14 OF 1964

A bill to give effect to the financial proposals of the Central Government for the financial year 1964-65.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Finance Act, 1964.

5 (2) Save as otherwise provided in this Act, sections 3 to 55 shall be deemed to have come into force on the 1st day of April, 1964.

2. (1) Subject to the provisions of sub-sections (2), (3), (4) and (5), for the assessment year commencing on the 1st day of April, 1964,—

Short
title and
commence-
ment.

Income-
tax and
super-tax

10 (a) income-tax shall be charged at the rates specified in Part I of the First Schedule and, in the cases to which Paragraphs A, B, C and E of that Part apply, shall be increased by a surcharge for purposes of the Union calculated in either case in the manner provided therein;

43 of 1961. (b) super-tax shall, for the purposes of section 95 of the
15 Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union calculated in the manner provided therein.

20 (2) In making any assessment for the assessment year commencing on the 1st day of April, 1964,—

25 (a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries", the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an

amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1963, on his total income the same proportion as the amount of such inclusion bears to his total income;

13 of 1963.

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (1) of section 192 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1963, on his total income the same proportion as the amount of such inclusion bears to his total income.

13 of 1963.

(3) In making any assessment for the assessment year commencing on the 1st day of April, 1964, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, includes any profits and gains from life insurance business, the super-tax payable by it shall be the aggregate of the tax calculated—

31 of 1956.

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable to the Life Insurance Corporation of India in accordance with Paragraph E of Part II of the First Schedule; and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income.

(4) In cases to which Chapter XII of the Income-tax Act applies, the tax chargeable shall be determined as provided in that Chapter, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter, as the case may be.

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(5) (a) In respect of any assessment for the assessment year commencing on the 1st day of April, 1964—

(i) an assessee being an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India or an assessee (other than a company) whose total income includes any profits and gains derived from the export of any goods or merchandise out of India, shall be entitled to a deduction, from the amount of income-tax and super-tax with which he is chargeable, of an amount equal to the income-tax and super-tax calculated respectively at one-tenth of the average rate of income-tax and of the average rate of super-tax on the amount of such profits and gains included in the total income;

(ii) where an assessee of the type referred to in clause (i) engaged in the manufacture of any articles in an industry

specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 has exported after the 28th day of February, 1963, such articles out of India, he shall be entitled, in addition to the deduction of tax referred to in clause (i), to a further deduction, from the amount of tax with which he is chargeable for the assessment year, of an amount equal to the income-tax and super-tax calculated respectively at the average rate of income-tax and the average rate of super-tax on an amount equal to two per cent. of the sale proceeds receivable by him in respect of such export;

(iii) where an assessee of the type referred to in clause (i) engaged in the manufacture of any articles in an industry specified in the said First Schedule has sold after the 28th day of February, 1963, such articles to any other person in India who himself has exported them out of India and evidence is produced before the Income-tax Officer of such articles having been so exported, the assessee shall be entitled to a deduction from the amount of income-tax and super-tax with which he is chargeable for the assessment year of an amount equal to the income-tax and super-tax calculated respectively at the average rate of income-tax and the average rate of super-tax on a sum equal to two per cent. of the sale proceeds receivable by him in respect of such articles from the exporter.

(b) The total of the deductions under this sub-section shall in no case exceed the amount of income-tax and super-tax otherwise payable by the assessee.

(c) Nothing contained in sub-clause (ii) and sub-clause (iii) of clause (a) shall apply,—

(i) in relation to—

- (1) fuels,
- (2) fertilisers,
- (3) photographic raw film and paper,
- (4) textiles (including those dyed, printed or otherwise processed) made wholly or in part of jute, including jute twine and rope,
- (5) newsprint,
- (6) pulp—wood pulp, mechanical, chemical, including dissolving pulp,
- (7) sugar,
- (8) vegetable oils and vanaspathi,
- (9) cement and gypsum products,

(10) arms and ammunition, and

(11) cigarettes,

respectively specified in items 2, 18, 20, 23(2), 24(2), 24(5), 25, 28, 35, 37 and 38 of the First Schedule to the Industries (Development and Regulation) Act, 1951; or

5 65 of 1951

(ii) in relation to textiles specified in items 23(1), 23(3), 23(4) and 23(5) of that Schedule where such textiles have been exported before the 1st day of March, 1964.

(d) The amount of any profits and gains derived from the export of any goods or merchandise out of India in respect of which ¹⁰ deduction of income-tax and super-tax is admissible under sub-clause (i) of clause (a) shall be computed in accordance with the rules made by the Central Board of Direct Taxes in this behalf.

(6) In cases in which tax has to be deducted under sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act at the ¹⁵ rates in force, the deduction shall be made at the rates specified in Part III of the First Schedule.

(7) For the purposes of this section, and of the rates of tax imposed thereby, and of section 3—

(i) the expressions "assessment year", "average rate of ²⁰ income-tax", "average rate of super-tax", "partner", "tax" and "total income" have, unless the context otherwise requires, the meanings respectively assigned to them under clauses (9), (10), (11), (23), (43) and (45) of section 2 of the Income-tax Act;

(ii) the expression "earned income" has the same meaning ²⁵ as in section 2 of the Finance (No. 2) Act, 1962.

20 of 1962.

Annuity
deposit.

3. (1) For the assessment year commencing on the 1st day of April, 1964, annuity deposit shall be made by every person to whom the provisions of Chapter XXII-A of the Income-tax Act apply at the rates specified in the Second Schedule.

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(2) For the purposes of this section and the Second Schedule, the expressions "adjusted total income", "annuity deposit" and "depositor" have the meanings respectively assigned to them under clauses (1), (5) and (6) of section 280B of the Income-tax Act.

Amend-
ment of
section 2.

4. In section 2 of the Income-tax Act, in clause (24)—

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(i) after sub-clause (v), the following sub-clause shall be inserted, namely:—

"(va) the value of any benefit or perquisite taxable under clause (iv) of section 28;"

(ii) after sub-clause (vii), the following sub-clause shall be inserted, namely:—

“(viii) any annuity due, or commuted value of any annuity paid, under the provisions of section 280D;”.

5 5. In section 9 of the Income-tax Act, in the *Explanation* to clause (i) of sub-section (1), the proviso to clause (b) shall be omitted. Amend-
ment of
section 9.

6. In section 10 of the Income-tax Act,—

Amend-
ment of
section 10.

10 (i) in clause (4), after the words “in the case of a non-resident,” the following words shall be inserted, namely:—

“any income from interest on such securities as the Central Government may, by notification in the Official Gazette, specify in this behalf, or”;

(ii) in clause (6),—

15 (a) in sub-clause (vii) (a), for the words “was approved by the Central Government before the commencement of his service”, the words “is approved by the Central Government before the commencement of his service or within one year of such commencement” shall be substituted;

20 (b) after sub-clause (viii), the following sub-clause shall be inserted, namely:—

25 “(ix) any income chargeable under the head “Salaries” received by or due to him during the thirty-six months commencing from the date of his arrival in India for service rendered as a professor or other teacher in a University or other educational institution, and where any such individual continues to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head “Salaries” is paid by the University or other educational institution concerned to the Central Government, the tax so paid for a period not exceeding twenty-four months following the expiry of the thirty-six months aforesaid, provided in either case the following conditions are fulfilled, namely:—

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(i) such individual was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India; and

(ii) his contract of service is approved by the Central Government—

(a) on or before the 1st day of October, 1964, in the case of a professor or other teacher whose service commenced before the 1st day of April, 1964;

(b) before the commencement of his service or within one year of such commencement, in any other case;”;

(iii) in sub-clause (iv)(c) of clause (15), for the words beginning with “in any case” and ending with “its repayment”, the following shall be substituted, namely:—

“to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment”;

(iv) after clause (26), the following clause shall be inserted, namely:—

“(27) any income derived from a business of livestock breeding, or poultry or dairy farming, which is assessable for the assessment year commencing on the 1st day of April, 1965, 1966 or 1967.”.

Amend-
ment of
section 28.

7. In section 28 of the Income-tax Act, after clause (iii) and before *Explanation 1*, the following clause shall be inserted, namely:—

“(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession.”.

Amend-
ment of
section 33.

8. In section 33 of the Income-tax Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) (a) An assessee who, after the 31st day of March, 1964, acquires any ship which before the date of acquisition by him was used by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may

be prescribed, provided that the following conditions are fulfilled, namely:—

5 (i) such ship was not previous to the date of such acquisition owned at any time by any person resident in India;

(ii) such ship is wholly used for the purposes of the business carried on by the assessee; and

(iii) such other conditions as may be prescribed.

10 (b) An assessee who installs any machinery or plant (other than office appliances or road transport vehicles) which before such installation by the assessee was used outside India by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may
15 be prescribed, provided that the following conditions are fulfilled, namely:—

(i) such machinery or plant was not used in India at any time previous to the date of such installation by the assessee;

20 (ii) it is imported in India by the assessee from any country outside India;

11 of 1922 25 (iii) no deduction on account of depreciation or development rebate in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

30 (iv) such machinery or plant is wholly used for the purposes of the business carried on by the assessee; and

(v) such other conditions as may be prescribed.

35 (c) The development rebate under this sub-section shall be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year.”;

40 (ii) for the words, brackets and figure “under sub-section (1)” wherever they occur, the words, brackets, figures and letter “under sub-section (1) or sub-section (1A)” shall be substituted;

(iii) in sub-section (2), for the words "at the rate applicable thereto under that sub-section", the words, brackets, figures and letter "at the rate applicable thereto under sub-section (1) or sub-section (1A), as the case may be," shall be substituted;

(iv) in clause (b) of sub-section (3), for the words and figures "section 33 and section 34", the words and figures "this section and section 34" shall be substituted;

(v) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The Central Government, if it considers necessary¹⁰ or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of a ship acquired or machinery or plant installed after such date, not being earlier than three years from the date of such notification,¹⁵ as may be specified therein."

Amend-
ment of
section 37.

9. In section 37 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), any expenditure incurred by an assessee after the 31st day of 20 March, 1964 on advertisement or on maintenance of any residential accommodation including any accommodation in the nature of a guest house or in connection with travelling by an employee or any other person (including hotel expenses or allowances paid in connection with such travelling) shall be 25 allowed only to the extent, and subject to such conditions, if any, as may be prescribed."

Amend-
ment of
section 40.

10. In section 40 of the Income-tax Act, in clause (c),—

(1) for sub-clause (iii), the following sub-clause shall be substituted, namely:— 30

"(iii) any expenditure which results directly or indirectly in the provision of any benefit or amenity or perquisite, whether convertible into money or not, to an employee (including any sum paid by the company in respect of any obligation which but for such payment would have been 35 payable by such employee), to the extent such expenditure exceeds one-fifth of the amount of salary payable to the employee for any period of his employment after the 29th day of February, 1964:

5 Provided that in computing the aforesaid expenditure any payment by way of gratuity or any sum referred to in clause (vii) of sub-section (1) of section 17 or in clause (v) of sub-section (2) of that section or the amount of any compensation referred to in clause (i) or any payment referred to in clause (ii) of sub-section (3) of that section or any payment referred to in clause (iv) or clause (v) of sub-section (1) of section 36 shall not be taken into account.”;

10 (2) the existing *Explanation* shall be re-numbered as *Explanation 1* and after *Explanation 1* as so re-numbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*—In sub-clause (iii), the word “salary” shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.’.

15 11. In Chapter IV-D of the Income-tax Act, after section 44, the following section shall be inserted, namely:—

Insertion
of new
section
44A.

20 “44A. (1) Notwithstanding anything to the contrary contained in this Act, where the amount received during a previous year by any trade, professional or similar association from its members, whether by way of subscription or otherwise (not being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall, subject to the provisions of this section, be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under the head ‘Profits and gains of business or profession’ and if there is no income assessable under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head.

Special
provision
for deduction
in the
case of
trade, professional
or similar
association.

40 (2) In computing the income of the association for the relevant assessment year under sub-section (1), effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is

carried forward and set off against the income for the relevant assessment year.

(3) The amount of deficiency to be allowed as a deduction under this section shall in no case exceed one-half of the total income of the association as computed before making any allowance under this section. 5

(4) This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it." 10

Amendment of section 45.

12. In the Income-tax Act, section 45 shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) Where any shares are distributed by a company to its equity shareholders by way of bonus, every shareholder receiving such shares shall be chargeable to income-tax under the head 'Capital gains' in respect of such shares as if such shares were transferred by him at the fair market value on the date next following the expiry of the period of thirty days from the date of distribution: 15 20

Provided that income-tax shall not be chargeable under this sub-section if such shares are includible in the stock-in-trade of the assessee or if such shares are transferred by him before the expiry of the period aforesaid.

(3) Nothing contained in sub-section (2) shall be deemed to preclude the inclusion of any profits and gains arising from the transfer of any shares referred to in that sub-section in the total income of the assessee for any previous year in which such shares are actually transferred by him." 25

Amendment of section 52.

13. In the Income-tax Act, section 52 shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:— 30

"(2) Without prejudice to the provisions of sub-section (1), if in the opinion of the Income-tax Officer the fair market value of a capital asset transferred by an assessee as on the date of the transfer, exceeds the full value of the consideration declared by the assessee in respect of the transfer of such capital asset by an amount of not less than fifteen per cent. of the value so 35

declared, the full value of the consideration for such capital asset shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be its fair market value on the date of its transfer.”.

- 5 14. In section 55 of the Income-tax Act, in sub-section (2), after
clause (iii), the following clauses shall be inserted, namely :— Amend-
ment of
section 55.

10 “(iv) where the capital asset, being a share of a company,
became the property of the assessee on any distribution by the
company to its equity shareholders of shares by way of bonus
and such asset is actually transferred after the expiry of thirty
days referred to in sub-section (2) of section 45, means the fair
market value of the asset on the date next following the expiry
of the said thirty days;

15 (v) where the capital asset, being a share or a stock of a
company, became the property of the assessee on—

(a) the consolidation and division of all or any of the
share capital of the company into shares of larger amount
than its existing shares;

20 (b) the conversion of any shares of the company into
stock;

(c) the reconversion of any stock of the company into
shares;

(d) the sub-division of any of the shares of the company
into shares of smaller amount; or

25 (e) the conversion of one kind of shares of the company
into another kind,

means the cost of acquisition of the asset calculated with
reference to the cost of acquisition of the shares or stock from
which such asset is derived.”.

- 30 15. In section 66 of the Income-tax Act, for the words and figures
“sections 87 and 88”, the words, figures and letter “sections 87, 87A
and 88” shall be substituted. Amend-
ment of
section 66.

16. After section 69 of the Income-tax Act, the following section
shall be inserted, namely :— Insertion
of new
section
69A.

35 “69A. Where in any financial year the assessee is found to
be the owner of any money, bullion, jewellery or other
valuable article and such money, bullion, jewellery or valuable
etc.

article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."

Amendment of section 86.

17. In section 86 of the Income-tax Act, in clause (iii), for the words "income-tax has already been paid by the firm", the words "income-tax is payable by the firm" shall be substituted.

Amendment of section 87.

18. In section 87 of the Income-tax Act,—

(i) in sub-section (3),—

(a) to clause (i), the following proviso shall be added, namely :—

"Provided that such individual has effected an insurance referred to in sub-clause (i) of clause (a) of sub-section (1) prior to the first day of March, 1964 and has paid any sum in the previous year to keep in force such insurance;"

(b) in clause (ii), after the words "any other individual", the brackets, words and figure "(including an author, playwright, artist, musician or actor to whom the provisions of clause (i) do not apply)" shall be inserted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) The amount of income-tax deductible under this section, together with the amount of super-tax deductible under section 99A, shall not in any case exceed half the aggregate of the sums in respect of which the deduction is allowed under this section."

Insertion of new section 87A.

19. After section 87 of the Income-tax Act, the following section shall be inserted, namely:—

Rebate on educational expenses in certain cases.

"87A. Where an individual, being a resident, who is not a citizen of India has expended any sum in the previous year out of his income chargeable to tax for the full-time education of his child wholly or mainly dependent on him and who is not more than twenty-one years of age at any University, college, school or other educational institution situate in a country outside

India, he shall be entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year, of an amount equal to the income-tax calculated at the average rate of income-tax on a sum—

5 (i) which, in the case of an individual who has one such child, shall not exceed two thousand rupees or twenty-five per cent. of his total income, whichever is less; and

(ii) which, in the case of an individual who has more than one such child, shall not exceed four thousand rupees
10 or twenty-five per cent. of his total income, whichever is less.”.

20. In section 91 of the Income-tax Act, in clause (ii) of the *Explanation*, for the words “any relief due under this section”, the words “any relief due under this Chapter” shall be substituted. Amendment of section 91.

15 21. In section 99 of the Income-tax Act, in sub-section (1),—

(i) in clause (i), for the words “super-tax has already been paid by the firm”, the words “super-tax is payable by the firm” shall be substituted; Amendment of section 99.

(ii) for sub-clause (iv), the following sub-clause shall be substituted, namely:—

20 “(iv) if the assessee is a company, any dividend received by it from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India;”.

22. In Chapter XI-C of the Income-tax Act, before section 100, the following sections shall be inserted, namely:— Insertion of new sections 99A and 99B.

30 “99A. Where under the provisions of section 87, an assessee is entitled to a deduction of income-tax in respect of any sum referred to in sub-section (1) of that section, he shall also be entitled, subject to the provisions of sub-section (4) of that section, to a deduction from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on such sum. Rebate on life insurance premia, annuities and contributions to provident funds, etc.

35 99B. Where under the provisions of section 87A, an individual, being a resident, who is not a citizen of India is entitled to a deduction of income-tax in respect of any sum referred to in that section, he shall also be entitled to a deduction, Rebate of super-tax in certain cases.

from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on such sum."

Amend-
ment of
section
104.

23. In section 104 of the Income-tax Act,—

(i) in sub-section (1),—

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(a) for the words, brackets and figures "sub-section (2) and of sections 105, 106 and 107", the words, figures and letter "this section and of sections 105, 106, 107 and 107A" shall be substituted;

(b) after the words "dividends by any company", the 10 brackets and words "(not being an Indian company whose business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power)" shall be substituted;

(ii) after sub-section (2), the following sub-section shall be 15 inserted, namely:—

"(3) If the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions as may be specified therein, exempt any class of 20 companies to which the provisions of this section apply from the operation of this section."

Amend-
ment of
section
106.

24. To section 106 of the Income-tax Act, the following proviso shall be added, namely:—

"Provided that the period of limitation prescribed by this 25 section shall not apply in a case where the company has made an application to the Board under section 107A."

Amend-
ment of
section
107.

25. In section 107 of the Income-tax Act, for the words "No order shall be made", the words, brackets, figures and letter "Except in cases where a decision is given by the Board under sub-section (4) 30 of section 107A, no order shall be made" shall be substituted.

Insertion
of new
section
107A.

26. After section 107 of the Income-tax Act, the following section shall be inserted, namely:—

Reduction
of mini-
mum
distribu-
tion in
certain
cases.

"107A. (1) If any company to which the provisions of section 104 apply (not being an investment company) considers that 35 having regard to the current requirements for the development of its business, it would not be possible or advisable for it to declare or pay a dividend of an amount larger than that already declared or paid or proposed to be declared or paid by it, it may make an application to the Board for reduction of the 40 amount of the minimum distribution required under this Chapter.

(2) Every application under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be made within the period of twelve months referred to in sub-section (1) of section 104 or, where the Income-tax Officer has served on the company a notice under sub-section (1) of section 105 of his intention to make an order under section 104, within thirty days of the receipt of such notice.

(3) Every application under sub-section (1) shall be accompanied by a fee of one hundred rupees.

(4) If the Board is satisfied that a distribution equal to the statutory percentage of the distributable income of the company concerned would be unreasonable, it may reduce the amount of minimum distribution required of the company under this Chapter by such amount, not exceeding twenty per cent. of the statutory percentage of its distributable income, as it may consider fit and further determine the period within which such distribution shall be made.

(5) The Board shall not reject an application made under sub-section (1) without giving the company concerned an opportunity of being heard and its decision shall be final as respects matters concluded by it.

(6) Where an application is made by the company after receipt of a notice from the Income-tax Officer under sub-section (1) of section 105 and a further distribution is made in accordance with the decision thereon of the Board, such further distribution shall not be taken into account in deciding whether the provisions of section 104 apply in respect of the previous year in which the further distribution is made.

(7) Where an application is made by a company under this section, the Income-tax Officer shall not make any order under section 104 until the decision is given by the Board on that application:

Provided that where a company is required to make a distribution or further distribution of its profits and gains in accordance with the decision of the Board and fails to make such distribution or further distribution within the period determined thereunder, the Income-tax Officer shall make an order under section 104 as if no reduction of the amount of minimum distribution had been made by the Board under this section.

(8) If the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, declare that the provisions

of this section shall not apply to any class of companies or in regard to the whole or any part of the profits and gains of any class of companies.

(9) Notwithstanding anything contained in section 246, no appeal shall lie to the Appellate Assistant Commissioner against an order of the Income-tax Officer under section 104 in a case where a decision has been given by the Board. 5

(10) The Board may, by notification in the Official Gazette, direct that, subject to such conditions, if any, as may be specified in the notification, the powers exercisable by it under this section shall also be exercisable by any Commissioner in respect of such companies or classes of companies as may be specified therein and thereupon in respect of such companies or classes of companies the provisions of this section and sections 106 and 107 shall have effect as if references in the said sections to the Board were references to such Commissioner." 10 15

Amend-
ment of
section
109.

27. In section 109 of the Income-tax Act,—

(a) for the words and figures "For the purposes of sections 104 and 105", the words, figures and letter "For the purposes of sections 104, 105 and 107A" shall be substituted; 20

(b) in clause (iii)—

(i) sub-clause (2) shall be omitted;

(ii) in sub-clause (3), for the words "in any of the activities specified in the preceding clause", the words "in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power" shall be substituted. 25

Amend-
ment of
section
114.

28. In section 114 of the Income-tax Act, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) the amount of income-tax and super-tax calculated on the amount of the net capital gains, if any, relating to capital assets other than short-term capital assets— 30

(1) in the case of capital gains relating to buildings or lands, or any rights in buildings or lands, at three-fourths of the average rate of income-tax and three-fourths of the average rate of super-tax respectively, which would have been applicable to the total income, if the net capital gains, if any, relating to short-term capital assets and the amount of compensation or other payment aforesaid, if any, had not formed part of it, and 35 40

(2) in any other case, at one-half of the average rate of income-tax and one-half of the average rate of super-tax

respectively [average rate of income-tax and average rate of super-tax being computed for this purpose in the same manner as for the purpose of sub-clause (ii) (1) of this clause] :

5 Provided that—

(i) where the total income does not exceed the sum of twenty thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax payable under sub-clause (ii) of this clause of a sum calculated at three-fourths or, as the case may be, one-half of the average rate of income-tax referred to in the said sub-clause in respect of an amount not exceeding five thousand rupees of the capital gains relating to capital assets other than short-term capital assets; and

10
15 (ii) where the total income exceeds the sum of twenty thousand rupees, the income-tax payable under sub-clause (ii) of this clause shall not exceed the aggregate of—

(1) the amount of income-tax which would have been payable in respect of capital gains relating to capital assets other than short-term capital assets if the assessee had been entitled to the deduction referred to in clause (i) of this proviso in the same manner as an assessee whose total income does not exceed a sum of twenty thousand rupees; and

20
25 (2) one-half of the amount by which the total income exceeds the sum of twenty thousand rupees;

plus”.

Amend-
ment of
section 115. 29. In section 115 of the Income-tax Act, for clause (b), the following clause shall be substituted, namely:—

30 “(b) the amount of super-tax equal to the aggregate of—

(1) the amount of super-tax calculated on the amount of capital gains relating to capital assets other than short-term capital assets included in its total income—

(i) at the rate of fifteen per cent. on so much of the amount of such capital gains as relate to buildings or lands or any rights in buildings or lands; and

35 (ii) at the rate of five per cent. on the balance of such capital gains, if any; and

(2) the amount of super-tax with which it would have been chargeable had its total income been reduced by the amount of capital gains referred to in sub-clause (1) ”

40

Substitution of new section for section 132.

Powers of search and seizure.

30. For section 132 of the Income-tax Act, the following section shall be substituted, namely:—

"132. (1) Where the Commissioner, in consequence of information in his possession, has reason to believe that—

(a) any person to whom a summons under sub-section (1) ⁵ of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or ¹⁰ 11 of 1922.

(b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 or under this Act, or ¹⁵ 11 of 1922.

(c) any person is in possession of any articles or things ²⁰ including money wholly disproportionate to his known sources of income, particulars of which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 or this Act, ^{11 of 1922.}

he may authorise any Inspecting Assistant Commissioner or any ²⁵ Income-tax Officer to enter and search any building or place where he has reason to suspect that such books of account, other documents, articles or things including money are kept and if as a result of the search such books of account, other documents, articles or things including money are found, the Inspecting ³⁰ Assistant Commissioner or the Income-tax Officer, as the case may be, may—

(i) seize any such books of account or other documents;

(ii) place marks of identification on any such books of account or other documents or make or cause to be made ³⁵ extracts or copies therefrom;

(iii) make a note or an inventory of any articles or things including money found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(2) The books of account or other documents seized under sub-section (1) shall not be retained by the Inspecting Assistant Commissioner or the Income-tax Officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Commisisoner for such retention is obtained:

Provided that the Commissioner shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.

(3) The person from whose custody any books of account or other documents are seized under sub-section (1) may make copies thereof, or take extracts therefrom, in the presence of the Income-tax Officer or any other person authorised by him, at such place and time as the Income-tax Officer may appoint in this behalf.

(4) If a person legally entitled to the books of account or other documents seized under sub-section (1) objects for any reason to the approval given by the Commissioner under sub-section (2), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or documents.

(5) On receipt of the application under sub-section (4) the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

5 of 1898. (6) The provisions of the Code of Criminal Procedure, 1898 relating to searches shall apply, so far as may be, to searches under sub-section (1) of this section.

(7) The Central Board of Direct Taxes may make rules in relation to searches under this section.”.

31. After section 133 of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 133A.

35 “133A. (1) Notwithstanding anything in any other provision, an Income-tax Officer or any Inspector of Income-tax authorised by him in this behalf may enter—

Power of survey.

(a) any place within the limits of the area assigned to him, or

40 (b) any place occupied by any person in respect of whom the Income-tax Officer exercises jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to or helping in the carrying on of such business or profession to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and on the inspection of such accounts or documents he may, if he so deems necessary, place marks of identification thereon or cause to be made extracts therefrom :

Provided that the Income-tax Officer or such Inspector of Income-tax may enter any place referred to in this section only during such hours as the place is open for the conduct of the business or the profession:

Provided further that while acting under this section the Income-tax Officer or such Inspector of Income-tax shall not remove or cause to be removed from the place which he has entered any books of account or other documents.

(2) If a person who under sub-section (1) is required to afford facility to the Income-tax Officer or such Inspector of Income-tax to inspect books of account or other documents either refuses or evades to do so, the Income-tax Officer shall have all the powers under sub-sections (1) and (2) of section 131 for enforcing compliance of the requirement made.”.

32. Section 137 of the Income-tax Act shall be omitted.

33. For section 138 of the Income-tax Act, the following section shall be substituted, namely:—

“138. Where a person makes an application to the Commissioner in the prescribed form and pays the prescribed fee for any information relating to any assessee in respect of any assessment made under this Act or the Indian Income-tax Act, 1922, the Commissioner may, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for.”.

34. After section 140 of the Income-tax Act, the following section shall be inserted, namely:—

“140A. (1) Where a return has been furnished under section 139 and the tax payable on the basis of that return as reduced by any tax already paid under any provision of this

Omission
of section
137.

Substitu-
tion of
new sec-
tion for
section
138.

Disclosure
of infor-
mation
respecting
assessee.

Insertion
of new
section
140A.
Self-
assess-
ment.

25

30

11 of 1922.

35

Act exceeds five hundred rupees, the assessee shall pay the tax so payable within thirty days of furnishing the return.

(2) After a provisional assessment under section 141 or a regular assessment under section 143 or section 144 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards the provisional assessment or regular assessment, as the case may be.

(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), he shall, unless a provisional assessment under section 141 or a regular assessment under section 143 or section 144 has been made before the expiry of thirty days referred to in that sub-section, be liable, by way of penalty, to pay such amount as the Income-tax Officer may direct, so however, that the amount of penalty does not exceed fifty per cent. of the amount of such tax or part, as the case may be:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard."

35. Section 141A of the Income-tax Act shall be omitted.

Omission of section 141A.

36. In section 156 of the Income-tax Act, after the words "any other sum", the brackets, words, figures and letter "(including annuity deposit referred to in Chapter XXII-A)" shall be inserted.

Amendment of section 156.

37. In section 209 of the Income-tax Act, in sub-clause (iv) of clause (a), for the words, brackets and letters "clauses (b) and (c)", the words, brackets and letters "clauses (b), (c) and (d)" shall be, and shall be deemed to have been, substituted, with effect from the first day of April, 1963.

Amendment of section 209.

38. In section 246 of the Income-tax Act, in clause (o),—

(i) for sub-clause (i), the following sub-clauses shall be substituted, namely:—

Amendment of section 246.

"(i) section 140A, or

(ia) section 221, or";

(ii) for sub-clause (v), the following sub-clauses shall be substituted, namely:—

"(v) section 273, or

(vi) section 280R."

39. In section 254 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 254.

"(1A) (a) Where the appellant objects to the fair market value of a capital asset adopted under section 52, the Appellate

Tribunal may, and if the appellant so requires, shall, refer the question of the disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent and the Appellate Tribunal shall, so far as that question is concerned, pass its orders under sub-section (1) conformably to the decision of the valuers: 5

Provided that where the appellant or the respondent does not nominate any valuer within the time specified by the Appellate Tribunal or within such further time as the Appellate Tribunal may allow, the Appellate Tribunal may nominate a valuer on his behalf: 10

Provided further that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal and the decision of that valuer on the question of valuation shall be final. 15

(b) The valuers to whom a reference under this sub-section has been made by the Appellate Tribunal shall communicate their decision to the Appellate Tribunal within six months of the date of such reference or within such further time as that Tribunal may allow: 20

Provided that if the decision of the valuers is not communicated within the period aforesaid, the Appellate Tribunal may order that the reference made under this sub-section shall be deemed to be withdrawn and proceed to dispose of the case on the evidence before it, including the report of either of the valuers if any such report has been submitted. 25

(c) The extent to which the costs of arbitration proceedings (including a case where a reference is deemed to be withdrawn) shall be borne by the appellant or the respondent shall be at the discretion of the Appellate Tribunal. 30

(d) The valuers may, in disposing of any matter referred to them for arbitration under this sub-section, hold or cause to be held such enquiry as they think fit and after giving the appellant and the respondent an opportunity of being heard, make such decision as they think fit and shall communicate such decision in writing to the Appellate Tribunal. 35

(e) The valuers appointed under this sub-section, while acting as such, shall have all powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:— 40 5 of 1908.

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of documents;

(iii) receiving evidence on affidavit; and

(iv) issuing commission for examination of witnesses or documents.

10 of 1940.

(f) Nothing in the Arbitration Act, 1940 shall apply to arbitrations under this sub-section."

40. In section 271 of the Income-tax Act, in sub-section (1),—

(i) in clause (c), the word "deliberately" shall be omitted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

Amend-
ment of
section
271.

"*Explanation.*—Where the total income returned by any person is less than ninety per cent. of the total income (hereinafter in this *Explanation* referred to as the correct income) as assessed under section 143 or section 144 or section 147 (reduced by the expenditure incurred *bona fide* by him for the purpose of making or earning any income included in the total income but which has been disallowed as a deduction), such person shall, unless he proves that the failure to return the correct income did not arise from any fraud or any gross or wilful neglect on his part, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income for the purposes of clause (c) of this sub-section."

41. In section 277 of the Income-tax Act, for the words "punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the following shall be substituted, namely:—

Amend-
ment of
section
277.

"punishable with rigorous imprisonment for a term which may extend to two years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months."

42. In section 278 of the Income-tax Act, for the words "punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both", the following shall be substituted, namely:—

Amend-
ment of
section
278.

"punishable with rigorous imprisonment for a term which may extend to two years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months."

Omission
of section
280.

43. Section 280 of the Income-tax Act shall be omitted.

Insertion
of new
Chapter
XXII-A.

44. In the Income-tax Act, after section 280, the following Chapter and sections shall be inserted, namely:—

“CHAPTER XXII-A

ANNUITY DEPOSITS

5

Persons
to whom
this
Chapter
applies.

280A. The provisions of this Chapter shall apply to every person, being—

(i) an individual, who is a citizen of India,

(ii) a Hindu undivided family,

(iii) an unregistered firm,

10

(iv) an association of persons or a body of individuals, whether incorporated or not (other than a company or a co-operative society), and

(v) an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 (other than a corpo- 15
ration established by a Central, State or Provincial Act):

Provided that such person is a resident.

Defini-
tions.

280B. In this Chapter, unless the context otherwise requires,—

(1) “adjusted total income”—

(a) in relation to the assessment year commencing 20
on the 1st day of April, 1964, means the amount of total
income computed without making any allowance under
section 280O and reduced by the aggregate of the follow-
ing amounts, if any, included therein, namely:—

(i) any income chargeable under the head 25
“Salaries”;

(ii) if the depositor is a partner of an unregis-
tered firm which is liable to make an annuity deposit
for the relevant assessment year, the amount of his
share in the profits and gains of the firm computed 30
in the manner laid down in section 67; and

(iii) if the depositor is a member of an associa-
tion of persons or a body of individuals (other than
a Hindu undivided family or a firm) which is liable
to make an annuity deposit for the relevant assess- 35
ment year, the amount which he is entitled to receive
from the association or body;

(b) in relation to the assessment year commencing on the 1st day of April, 1965, or any subsequent assessment year, means the amount of total income computed without making any allowance under section 280O and reduced by the aggregate of the following amounts, if any, included therein, namely:—

(i) any sum which under the provisions of sub-clause (vii) of clause (1) of section 17 is included in salary;

(ii) any income chargeable under the head "Salaries" in respect of which the assessee can make an application for the grant of relief under sub-section (1) of section 89; and

(iii) the amount referred to in sub-clause (a) (ii) or sub-clause (a) (iii) of this clause;

(2) "advance deposit" means the annuity deposit required to be made in advance in accordance with the provisions of sections 280E to 280I;

(3) "advance tax" shall have the same meaning as in section 207;

(4) "annuity" means any annual instalment of principal and interest thereon payable by the Central Government under the provisions of section 280D;

(5) "annuity deposit" means a deposit of money required to be made under the provisions of this Chapter;

(6) "depositor" means a person to whom the provisions of this Chapter apply.

280C. (1) Where any Central Act enacts that any person to whom the provisions of this Chapter apply shall make for any assessment year an annuity deposit with the Central Government at any rate or rates, such person shall make such deposit at that rate or those rates in accordance with, and subject to the provisions of, this Chapter in respect of the adjusted total income of the previous year or previous years, as the case may be.

Require-
ment as
to annuity
deposit.

(2) In respect of the adjusted total income in relation to which an annuity deposit is to be made under sub-section (1), such deposit shall be made in advance in accordance with the provisions of sections 280E to 280I.

280D. Subject to the provisions of this Chapter and any scheme made thereunder, the Central Government shall repay

Repay-
ment.

to the depositor the annuity deposit made in any year in ten annual equated instalments of principal and interest at such rate as may be notified by the Central Government in the Official Gazette:

Provided that nothing in this section shall prevent the payment of any annuity at such commuted value thereof as may be provided in a scheme framed under section 280W, in any case in which the authority empowered to make such payment is satisfied that genuine hardship will be caused unless such payment is made.

Compu-
tation of
advance
deposit.

280E. The amount of advance deposit to be made by a depositor in the financial year shall be computed as follows:—

(a) (i) his total income for the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained;

(ii) the amount of income of the nature referred to in sub-clause (b) (i) or sub-clause (b) (ii) or sub-clause (b) (iii) of clause (1) of section 280B, if any, included in such income shall be deducted therefrom, and on the balance annuity deposit shall be calculated at the rates in force in the financial year;

(iii) the amount of annuity deposit calculated in accordance with sub-clause (ii) shall, subject to the provisions of clauses (b) and (c), be the advance deposit to be made;

(b) in cases where an estimate of the adjusted total income is sent by the depositor under sub-section (1) or sub-section (2) or sub-section (3) of section 280H, the total income on the basis of which such adjusted total income is estimated shall, for the purposes of calculation of advance deposit under this section, be substituted for the total income referred to in clause (a);

(c) in cases where the Income-tax Officer makes an amended order referred to in sub-section (3) of section 280F on the basis of a provisional assessment, the total income on the basis of which the relevant provisional assessment had been made shall be substituted for the total income referred to in clause (a).

Order by
Income-
tax
Officer.

280F. (1) Where a depositor has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922, the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to make an advance deposit computed in accordance with the provisions of section 280E.

40 11 of 1922.

(2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance deposit is to be made under section 280G.

5 (3) If, after the making of an order by the Income-tax Officer under this section and before the 15th day of February of the financial year, a regular assessment or a provisional assessment under section 141 of the depositor (or of the registered firm of which he is a partner) is made in respect of a previous year
10 later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring such depositor to make in one instalment on the specified date, or in equal instalments on the specified dates, if more than one, falling after the date of the amended order, the advance deposit computed on the basis of the adjusted total income
15 calculated with reference to the total income determined under the regular assessment or the provisional assessment aforesaid as reduced by the deposit, if any, made in accordance with the original order.

20 280G. Subject to the provisions of section 280H, the provisions of section 211 shall, so far as may be, apply in relation to advance deposit to be made by a depositor as they apply in relation to advance tax payable by an assessee with the modification that reference therein to section 210 shall be construed as a reference to section 280F. Instalments of advance deposit.

25 280H. (1) If a depositor, who is required to make advance deposit by an order under section 280F, estimates at any time before the last instalment is due that his adjusted total income for the period which would be the previous year for the immediately following assessment year, is less than the income in
30 respect of which he is required to make such deposit, and accordingly wishes to make a deposit of an amount less than the amount which he is so required to deposit, he may send to the Income-tax Officer—

35 (i) an estimate of the adjusted total income of the said previous year;

(ii) an estimate of the advance deposit to be made by him calculated in the manner laid down in section 280E;

and shall make such deposit as accords with his estimate in equal instalments on such of the dates specified in section 211
04 as applied to advance deposit by section 280G as have not expired or in one sum if only the last of such dates has not expired.

(2) The depositor may send a revised estimate of the advance deposit to be made by him and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) A depositor who has not previously been assessed by way of regular assessment under this Act, or under the Indian Income-tax Act, 1922, shall, before the 1st day of March in each financial year, if his total income of the period which would be the previous year for the immediately following assessment year is likely to exceed the minimum amount in relation to which annuity deposit is required to be made under the provisions of the Finance Act of that year, send to the Income-tax Officer— 11 of 1922.

(i) an estimate of the adjusted total income of the said previous year;

(ii) an estimate of the advance deposit to be made by him calculated in the manner laid down in section 280E; and shall make such deposit as accords with his estimate, on such of the dates specified under section 211 as applied to advance deposit by section 280G as have not expired, by instalments which may be revised according to sub-section (2). 20

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

Commis-
sion
receipts.

280I. Where part of the adjusted total income consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the depositor's account before any of the quarterly instalments of advance deposit become due, he may defer the making of advance deposit in respect of that part of his income to the date on which such income would be normally received or adjusted, and, if he does so, he shall communicate to the Income-tax Officer the date to which the making of such deposit is deferred. 25 30

Annuity
deposit
on the
basis of
self-
assess-
ment.

280J. Where in respect of any assessment year, income-tax is payable on the basis of self-assessment under section 140A, the depositor shall, on or before the date on which tax under such assessment is payable, make an annuity deposit equal to the amount, if any, by which the amount of annuity deposit required to be made on the basis of income returned exceeds the amount, if any, of the annuity deposit already made by him in respect of that assessment year. 35

Annuity
deposit
on the
basis of

280K. At the time of making a provisional assessment under section 141 or a regular assessment, or as soon thereafter as may be, the Income-tax Officer shall, by order in writing, determine 40

the amount of annuity deposit, if any, required to be made by the depositor on the basis of the income so assessed after taking into account the amount of annuity deposit, if any, already made by him in respect of that assessment year.

provi-
sional
or regular
assess-
ment.

5 280L. (1) If the total income of a depositor for the previous year relevant to the assessment year commencing on the 1st day of April, 1964 (such total income being computed without making any allowance under section 280O) exceeds fifteen thousand rupees and he does not furnish a return under section 139 before the 1st day of March, 1965 and no regular assessment under section 144 is made before the said 1st day of March, he shall send to the Income-tax Officer—

Special
provisions
for the
assess-
ment year
1964-65.

(i) an estimate of the adjusted total income of the said previous year;

15 (ii) an estimate of annuity deposit to be made by him calculated in the manner laid down in section 280E;

and shall make such deposit as accords with his estimate on or before the 31st day of March, 1965.

20 (2) An estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

280M. Where as a result of an order of re-assessment or recomputation under section 147 or as a result of an order under section 154 or section 155 or section 186 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the total income of a depositor is enhanced or reduced, or the status under which he is assessed is altered, or in the case of a firm, registration is granted or cancelled, the Income-tax Officer shall compute or recompute the amount of annuity deposit to be made by such depositor, and the excess amount deposited, if any, shall be refunded in such manner as may be provided in a scheme framed under section 280W.

Recompu-
tation of
annuity
deposit in
pursuance
of order
of appeal,
etc.

280N. Where any unregistered firm is assessed under clause (b) of section 183 for any assessment year, annuity deposit made by it in respect of that assessment year, if any, shall be refunded in such manner as may be provided in a scheme framed under section 280W.

Refund of
annuity
deposit
made by
a firm
assessed
under
clause
(b) of
section
183.

280O. (1) Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under any head of income, the annuity deposit required to be made under this Chapter shall, subject to the provisions of sub-section (2), be allowed as a deduction in

Annuity
deposit
allowed as
deduction
in comput-
ing total
income.

computing the total income assessable for the assessment year in respect of which the annuity deposit is required to be made.

(2) If the adjusted total income of the depositor includes any income chargeable under the head "Salaries", the allowance under sub-section (1) shall be made in computing the income under that head, and if there is no income chargeable under that head or the annuity deposit required to be made exceeds such income, the whole or the balance of the annuity deposit required to be made shall be allowed as a deduction in computing earned income chargeable under any other head, and if there is no earned income chargeable under any other head or the whole or the balance of the annuity deposit required to be made exceeds such earned income, the whole or balance of the annuity deposit required to be made shall be allowed as a deduction in computing any other income under any head.

Explanation.—In this sub-section, the expression "earned income" has the meaning assigned to it in the Finance Act of the relevant year.

Annuity deposit deductible in computing income under the head "Salaries" for purposes of section 192.

Rounding off.

280P. Any person responsible for paying any income chargeable under the head "Salaries" to a resident shall, at the time of payment, deduct income-tax and super-tax under section 192 as if the estimated income referred to in sub-section (1) of that section had been reduced by the amount of advance deposit, if any, to be made by the assessee at the rates in force in the financial year concerned in respect of such income, whether such advance deposit has or has not been made.

280Q. The amount of any deposit to be made under this Chapter shall be rounded off to the nearest multiple of five rupees and where such amount contains a part of five rupees, then, if such part is two rupees and fifty naye paise or more, it shall be increased to five rupees and if such part is less than two rupees and fifty naye paise, it shall be ignored.

Penalty for failure to make deposit.

280R. (1) If any person who is liable to make an annuity deposit under this Chapter fails to make such deposit within the time specified therefor, the Income-tax Officer may direct that the depositor shall pay by way of penalty an amount not exceeding one-half of the annuity deposit which he is liable to make.

(2) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment is satisfied that any depositor—

(a) has furnished under section 280H an estimate of advance deposit to be made by him which he knew or had reason to believe to be untrue, or

40

(b) has without reasonable cause failed to furnish an estimate of advance deposit to be made by him in accordance with the provisions of sub-section (3) of section 280H,

5 he may direct that such depositor shall pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not exceed half the amount by which the advance deposit actually made during the financial year immediately preceding the assessment year under the provisions of section 280E to 280I falls short of—

(1) seventy-five per cent. of the annuity deposit required to be made on the basis of income assessed by way of regular assessment (such deposit being calculated at the rates in force in the financial year immediately preceding the assessment year), or

(2) where a notice under section 280F was issued to the depositor, the deposit required to be made thereunder,

whichever is less; and

20 (ii) which, in the case referred to in clause (b), shall not exceed half the amount equal to the seventy-five per cent. referred to in clause (i) (1).

(3) No order imposing a penalty under this section shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

280S. Notwithstanding anything to the contrary contained in this Act, the provisions of this Act, other than those contained in this Chapter or any scheme framed thereunder, relating to interest payable by the Central Government on refunds and interest payable by the assessee in default or those relating to imposition of penalty shall not apply in relation to any sum due under this Chapter. Other interest and penalty provisions of the Act not to apply.

280T. For the removal of doubts, it is hereby declared that any arrear of annuity deposit and any penalty imposed under this Chapter shall be recoverable in the manner provided in Chapter XVII-D for the recovery of arrears of tax. Recovery of arrears of deposit and penalty.

280U. Any individual, being an author, playwright, artist, musician or actor, may, in addition to the amount of annuity deposit required to be made by him in respect of any assessment year, make a further deposit of an amount not exceeding fifteen per cent. of his adjusted total income assessable for that assessment year, and if he does so, the further deposit made by him, Special provisions for authors, playwrights, artists, musicians and actors.

shall, for the purposes of this Chapter, be included in the annuity deposit required to be made by him.

Special provisions relating to gratuity.

280V. Where the total income of a depositor assessable for any assessment year includes any gratuity chargeable under the head "Salaries", he may, in addition to the amount of annuity deposit required to be made by him in respect of that assessment year, make a further deposit of an amount not exceeding fifty per cent. of the amount of such gratuity, and if he does so, the further deposit made by him, shall, for the purposes of this Chapter, be included in the annuity deposit required to be made by him.

Annuity Deposit Scheme.

280W. (1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called Annuity Deposit Scheme or Schemes in relation to deposits under this Chapter.

(2) A scheme under sub-section (1) may provide for—

(a) the manner in which the annuity deposits shall be made;

(b) the manner in which, and intervals at which, annuities shall be paid; and where an annuity deposit is recomputed under section 280M, the manner in which the excess or deficiency of annuity deposit may be adjusted;

(c) the authority or authorities by or through whom such deposits may be collected or by whom annuities may be issued;

(d) the documents to be issued to persons by whom deposits have been made as evidence of such deposits;

(e) the accounts to be maintained with respect to such deposits and annuities and the officers by whom such accounts shall be maintained;

(f) the nomination of any person to receive the annuity or any other sum due under this Chapter to any depositor in the event of his death and the cancellation or change of such nomination;

(g) the issue of duplicate of any document issued as evidence of any such deposit in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued; and

(h) any other matter which may be necessary or proper for the effective implementation of the scheme.

(3) The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind any scheme framed under this Chapter.

(4) Any scheme framed under this Chapter shall be laid, as soon as may be, after it is framed before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, that provision of the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision."

45. For section 287 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 287.

"287. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings under this Act in respect of such assesseees, it may cause to be published such names and particulars in such manner as it thinks fit.

Publication of information respecting assesseees.

(2) No publication under this section shall be made in relation to any penalty imposed, or any conviction for any offence connected with any proceedings, under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner or to the first Appellate Court, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it."

Amendment of section 293.

46. In section 293 of the Income-tax Act, after the words "lie against", the words "the Government or" shall be inserted.

Amendment of section 295.

47. In section 295 of the Income-tax Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

"(dd) the extent to which, and the conditions subject to which, any expenditure referred to in sub-section (3) of section 37 may be allowed;"

Omission of the Fifth Schedule.

48. In the Income-tax Act, the Fifth Schedule shall be omitted.

Amendment of Act 34 of 1953.

49. In the Estate Duty Act, 1953,—

(a) in section 5A, the following amendments shall be made 10 and shall be deemed to have been made with effect from the 23rd day of September, 1963, namely:—

(i) in sub-section (2), the word "Orissa" shall be omitted;

(ii) in sub-section (3), the words "in the State of Orissa 15 and" shall be omitted;

(b) in section 33, in sub-section (1), after clause (m), the following clause shall be inserted, namely:—

"(n) one house or part thereof exclusively used by the deceased for his residence, to the extent the principal value 20 thereof does not exceed rupees one lakh if such house is situate in a place with a population exceeding ten thousand, and the full principal value thereof in any other case.";

(c) in section 34, in clause (a) of sub-section (1), for the brackets, letters and word "(l) and (m)", the brackets, letters 25 and word "(l), (m) and (n)" shall be substituted;

(d) in section 78, after the words "lie against", the words "the Government or" shall be inserted;

(e) for section 80, the following sections shall be substituted, 30 namely:—

Disclosure of information respecting assessments.

"80. Where a person makes an application to the Controller in the prescribed form and pays the prescribed fee for information relating to any assessment made under this Act, the Controller may, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to 35 be furnished the information asked for.

80A. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any accountable persons and any other particulars relating to any proceedings under this Act in respect of such persons, it may cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Controller has expired without an appeal having been presented or the appeal, if presented, has been disposed of.”;

(f) in the Second Schedule, for Part I, the following Part shall be substituted, namely:—

“PART I

15 In the case of any property which passes or is deemed to pass on the death of the deceased—

		<i>Rate of duty</i>
	(1) On the first Rs. 50,000 of the principal value of the estate	<i>Nil</i>
20	(2) On the next Rs. 50,000 of the principal value of the estate	4 %
	(3) On the next Rs. 1,00,000 of the principal value of the estate	8 %
25	(4) On the next Rs. 3,00,000 of the principal value of the estate	15 %
	(5) On the next Rs. 5,00,000 of the principal value of the estate	25 %
	(6) On the next Rs. 5,00,000 of the principal value of the estate	40 %
30	(7) On the next Rs. 5,00,000 of the principal value of the estate	50 %
	(8) On the balance of the principal value of the estate	85 %”.

50. In the Wealth-tax Act, 1957,—

35 (a) in section 5, in sub-section (1), for clause (iv), the following clause shall be substituted, namely:—

Amend-
ment of
Act 27 of
1957.

“(iv) one house or part of a house belonging to the assessee exclusively used by him for residential purposes:

40 Provided that where the value of such house or part, situate in a place with a population exceeding ten thousand,

exceeds one lakh of rupees, the amount that shall not be included in the net wealth of an assessee under this section shall be one lakh of rupees.”;

(b) section 42 shall be omitted;

(c) for sections 42A and 42B, the following sections shall be substituted, namely:—

Publica-
tion of in-
formation
respecting
assessee.

“42A. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assessee and any other particulars relating to any proceedings under this Act in respect of such assessee, it may cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed, or any conviction for any offence connected with any proceedings, under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner or to the first Appellate Court, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Disclo-
sure of in-
formation
respecting
assessee.

42B. Where a person makes an application to the Commissioner in the prescribed form and pays the prescribed fee for any information relating to any assessee in respect of any assessment made under this Act, the Commissioner may, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for.”;

(d) in section 43, after the words “lie against”, the words “the Government or” shall be inserted;

(e) in the Schedule, for Part I, the following Part shall be substituted, namely:—

“PART I

(a) In the case of every individual:—

	Rate of tax	
(i) on the first rupees one lakh of net wealth	Nil	35
(ii) on the next rupees four lakhs of net wealth	0.5 %	
(iii) on the next rupees five lakhs of net wealth	1.0 %	
(iv) on the next rupees ten lakhs of net wealth	2.0 %	
(v) on the balance of net wealth	2.5 %	

(b) In the case of every Hindu undivided family:—

	Rate of tax
(i) on the first rupees two lakhs of net wealth	Nil
(ii) on the next rupees three lakhs of net wealth	0·5%
5 (iii) on the next rupees five lakhs of net wealth	1·0%
(iv) on the next rupees ten lakhs of net wealth	2·0%
(v) on the balance of net wealth	2·5%".

51. In the Expenditure-tax Act, 1957,—

Amend-
ment of
Act 29 of
1957.

(i) in section 5,—
10 (1) for clause (g), the following clause shall be substituted, namely:—

“(g) any expenditure incurred by the assessee in the purchase of books;”;

(2) to clause (j), the following proviso shall be added,
15 namely:—

“Provided that the assessee is either chargeable to
18 of 1958. gift-tax under the Gift-tax Act, 1958 in respect of such gift, donation or settlement, as the case may be, or has deposited to the credit of the Central Government before the completion of his assessment for the relevant assessment year under this Act, a sum of four per cent. of the moneys or the value of the property comprised in such gift or donation or settlement, as the case may be, by way of payment of expenditure-tax for the relevant assessment year, such payment being in addition to the amount of expenditure-tax with which he is otherwise chargeable under the provisions of this Act.”;

(3) clauses (l) and (n) shall be omitted;

30 (ii) in section 6—

(a) in sub-section (1)—

(1) sub-clause (ii) of clause (a), and clause (c) shall be omitted;

(2) for clause (d), the following clause shall be
35 substituted, namely:—

“(d) four-fifths of any expenditure incurred by way of capital expenditure on the purchase of bullion, precious stones, jewellery, motor-cars and

other conveyances for the personal use of the assessee or any of his dependants :

Provided that where a deduction as aforesaid is made, one-fifth of the said capital expenditure shall be deemed to be incurred by the assessee in each of the four years succeeding the previous year in which the expenditure was incurred and no deduction shall be made under this clause in the assessment for any succeeding year in respect of expenditure so deemed to have been incurred in any earlier year;”;

(3) clauses (e), (f), (g) and (h) shall be omitted;

(4) in clause (i), the words, brackets and letters “to the extent to which such expenditure is not admissible under clause (c) or clause (e) or clause (f) or clause (g)” shall be omitted;

(5) clause (j) shall be omitted;

(b) sub-section (2) and sub-section (3) shall be omitted;

(iii) section 38 shall be omitted;

(iv) for sections 38A and 38B, the following sections shall be substituted, namely :—

“38A. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings under this Act in respect of such assesseees, it may cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed, or any conviction for any offence connected with any proceedings, under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner or to the first Appellate Court, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

38B. Where a person makes an application to the Commissioner in the prescribed form and pays the prescribed fee for any information relating to any assessee in respect of any assessment made under this Act, the Commissioner may, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for.”;

Publica-
tion of in-
formation
respecting
assesseees.

Disclo-
sure of in-
formation
respecting
assesseees.

(v) in section 39, after the words "lie against", the words "the Government or" shall be inserted;

(vi) for the Schedule, the following Schedule shall be substituted, namely :—

5

"THE SCHEDULE

(See section 3)

RATES OF EXPENDITURE-TAX

In the case of every individual and Hindu undivided family, on that portion of the taxable expenditure—

10	(i) which does not exceed Rs. 36,000	Nil.
	(ii) which exceeds Rs. 36,000 but does not exceed Rs. 48,000	5%
	(iii) which exceeds Rs. 48,000 but does not exceed Rs. 60,000]	7.5%
	(iv) which exceeds Rs. 60,000 but does not exceed Rs. 72,000	10%
	(v) which exceeds Rs. 72,000 but does not exceed Rs. 84,000	15%
15	(vi) which exceeds Rs. 84,000	20%

Provided that in respect of any assessment for the financial year commencing on the 1st day of April, 1964 or 1965, this Schedule shall have effect as if for items (v) and (vi), the following item had been substituted, namely :—

20	(v) which exceeds Rs. 72,000	15%."
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52. In the Gift-tax Act, 1958,—

(a) in section 5, in clause (viii) of sub-section (1), for the words "rupees one lakh", the words "rupees fifty thousand" shall be substituted;

Amend-
ment of
Act 18 of
1958.

25 (b) after section 6, the following section shall be inserted, namely :—

30 "6A. (1) Notwithstanding anything to the contrary contained in this Act, where an assessee has made taxable gifts to the same donee during a previous year and during any one or more of the four previous years immediately preceding such previous year, the gift-tax payable by him for the relevant assessment year shall, subject to the provisions of sub-section (2), be determined in the following manner, namely :—

Aggrega-
tion of
gifts made
to the
same
donee
during a
certain
period.

35 (a) the value of the taxable gifts made to such a donee during any one or more of the four previous years

immediately preceding the previous year relevant to an assessment year shall be aggregated with the value of the taxable gifts made by the assessee during the relevant previous year and gift-tax shall be calculated on the aggregate value at the rate or rates specified in the Schedule; 5

(b) from the amount of gift-tax calculated under clause (a), there shall be deducted the aggregate of—

(i) an amount which bears to the amount of gift-tax calculated under clause (a) the same proportion 10 as the value of any taxable gift made to such donee prior to the 1st day of April, 1963 included in the aggregate value referred to in clause (a) bears to such aggregate value;

(ii) the amount of any gift-tax payable by the 15 assessee for each of the four assessment years immediately preceding the relevant assessment year in respect of the value of the taxable gifts made by him to the said donee after the 31st day of March, 1963, included in the aggregate value referred to in clause 20 (a),

and the balance shall be the amount of gift-tax payable by the assessee.

Explanation.—For the purposes of sub-clause (ii) of clause (b), the amount of gift-tax payable by an assessee 25 in respect of the value of taxable gifts made by him to the same donee for each of the four assessment years immediately preceding the relevant assessment year means such proportion of the total amount of gift-tax payable by the assessee for that assessment year as the 30 value of any taxable gifts made by him after the 31st day of March, 1963, to such donee during the relevant previous year bears to the total value of the taxable gifts made by the assessee during that previous year.

(2) The gift-tax payable by an assessee shall in no case 35 be less than the amount of the gift-tax which would be payable by him without giving effect to the provisions of subsection (1).”;

(c) in section 32, to sub-section (2), the following proviso shall be, and shall be deemed always to have been, added, namely :—

5 “Provided that where as a result of an order under section 22, or section 23, or section 24, or section 25, or section 26, or section 28, or section 34, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.”;

10 (d) in section 34, in sub-section (5), for the word and figures “section 33”, the word, figures and letter “section 33A” shall be, and shall be deemed always to have been, substituted;

(e) section 41 shall be omitted;

5 (f) for sections 41A and 41B, the following sections shall be substituted, namely:—

20 “41A. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings under this Act in respect of such assesseees, it may cause to be published such names and particulars in such manner as it thinks fit.

25 (2) No publication under this section shall be made in relation to any penalty imposed, or any conviction for any offence connected with any proceedings, under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner or to the first Appellate Court, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

30 *Explanation.*—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.

35 41B. Where a person makes an application to the Commissioner in the prescribed form and pays the prescribed fee for any information relating to any assessee in respect of any assessment made under this Act, the Commissioner may, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for.”;

40

(g) in section 42, after the words "lie against", the words "the Government or" shall be inserted;

(h) for the Schedule, the following Schedule shall be substituted, namely:—

"THE SCHEDULE

5

[See section 3]

RATES OF GIFT-TAX

	<i>Rate of gift-tax</i>
(1) On the first Rs. 5,000 of the value of all taxable gifts . . .	4% 10
(2) On the next Rs. 15,000 of the value of all taxable gifts . . .	8%
(3) On the next Rs. 25,000 of the value of all taxable gifts . . .	15%
(4) On the next Rs. 1,00,000 of the value of all taxable gifts . . .	25 %
(5) On the next Rs. 2,00,000 of the value of all taxable gifts . . .	40 %
(6) On the balance of the value of all taxable gifts.	50%". 15

Expendi-
ture-tax
to be
levied
from
1st April,
1964.

53. Notwithstanding anything contained in section 13 of the Finance (No. 2) Act, 1962, expenditure-tax shall be charged under the Expenditure-tax Act, 1957 for every financial year commencing on or after the 1st day of April, 1964, in respect of the expenditure incurred by an individual or Hindu undivided family.

20 of 1962

29 of 1957

20

Amend-
ment of
Act 13 of
1963.

54. In Paragraph A of Part I of the First Schedule to the Finance Act, 1963, for clause (ii) of the proviso to clause (c) under the heading "*Surcharges on income-tax*", the following clause shall be, and shall be deemed always to have been, substituted, namely:—

"(ii) the additional surcharge shall in no case exceed one-half ²⁵ of the amount by which the residual income exceeds the limit specified below."

Super
profits
tax not
to be
levied
from
1st April,
1964.

55. Notwithstanding anything contained in the Super Profits Tax Act, 1963, super profits tax shall not be charged for any assessment year commencing on or after the 1st day of April, 1964, in respect of the chargeable profits of any company.

14 of 1963

30

Amend-
ment of
Act 32
of 1934.

56. The Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act) shall be amended in the manner specified in the Third Schedule.

Surcharge
on duties
of cus-
toms.

57. (1) In the case of goods chargeable with a duty of customs which is specified in the First Schedule to the Tariff Act as amended ³⁵ by this Act or any subsequent Act of Parliament, or in that Schedule read with any notification of the Central Government for the time being in force, there shall be levied and collected as an addition to,

and in the same manner as, the total amount so chargeable, a sum equal to 10 per cent. of such amount:

Provided that in computing the total amount so chargeable, any duty chargeable under section 2A of the Tariff Act or section 58 of this Act shall not be included.

10 of 1897. (2) Sub-section (1) shall cease to have effect after the 31st day of March, 1965 except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

58. (1) There shall be levied and collected, with effect from such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all goods mentioned in the First Schedule to the Tariff Act as amended by this Act or any subsequent Act of Parliament, a regulatory duty of customs which shall be—

(a) 25 per cent. of the rate, if any, specified in the said First Schedule read with any notification issued under section 3A or sub-section (1) of section 4 of the Tariff Act; or

52 of 1962. (b) 10 per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962, whichever is higher:

Provided that different dates may be specified by the Central Government for different kinds of goods.

10 of 1897. (2) Sub-section (1) shall cease to have effect after the 30th day of April, 1965 except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

52 of 1962. (3) The duty of customs leviable under this section in respect of any goods referred to in sub-section (1) shall be in addition to any other duty of customs chargeable on such goods under the Customs Act, 1962.

52 of 1962. (4) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the regulatory duty of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations.

(5) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be placed before each House of Parliament.

Amend-
ment of
Act 1 of
1949.

59. In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1964", the figures "1965" shall be substituted.

Amend-
ment of
Act 1 of
1944.

60. In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act),—

(1) in section 2, in clause (f),—

5

(i) the words beginning with "and the word 'manufacturer'" and ending with "are intended for sale" shall be omitted;

(ii) after sub-clause (iii), the following sub-clause shall be inserted, namely :—

10

"(iv) in relation to goods comprised in Item No. 18A of the First Schedule, includes sizing, beaming, warping, wrapping, winding or reeling, or any one or more of these processes, or the conversion of any form of the said goods into another form of such goods;

15

and the word 'manufacturer' shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;"

20

(2) in the First Schedule,—

(a) in Item No. 4, under "II—*Manufactured tobacco*"—, for the entries in the third column against sub-items 2 (iii) and 2 (iv), the entries "Seven rupees and fifty naye paise" and "Four rupees and forty naye paise" shall, respectively, be substituted;

25

(b) in Item No. 14, under "I", after sub-item (4), the following sub-item shall be inserted, namely:—

"(4A) Dispersed Organic pigments ordinarily used for the printing of textiles, whether in the form of powder, paste, or in emulsion.

Two rupees and fifty naye paise per kilogram.";

30

(c) after Item No. 14B, the following Item shall be inserted, namely :—

"14BB. SODIUM SILICATE Eight rupees per quintal.";

(d) in Item No. 14F, in the second column,—

35

(i) for sub-items (i), (ii) and (iii), the following sub-item shall be substituted, namely:—

"(i) Preparations for the care of the skin including beauty creams, vanishing creams, cold creams, make-up creams, cleansing creams, skin foods and 40

tonics, face powders, baby powders, toilet powders and talcum powders.”;

(ii) sub-item (iv) shall be re-numbered as sub-item (ii);

5 (e) in Item No. 15, under “I”, for sub-items (1), (2) and (3), the following sub-items shall be substituted, namely:—

“(1) Soap, household and laundry . . . Eighteen rupees per quintal.
(2) Other sorts . . . Thirty-eight rupees per quintal.”;

10 (f) for Item No. 15A, the following Item shall be substituted, namely:—

“15A. ARTIFICIAL OR SYNTHETIC
RESINS AND PLASTIC MATERIALS,
AND ARTICLES THEREOF . . . Twenty per cent. *ad valorem*.”

15 (1) Artificial or synthetic resins and plastic materials in any form, whether solid, liquid or pasty, or as powder, granules or flakes, or in the form of moulding powders, the following, namely:—

20 (i) Condensation, Poly-condensation and Poly-addition products, whether or not modified or polymerised, including Phenoplasts, Aminoplasts, Alkyds, Polyurethane, Polyallyl Esters and other Unsaturated Polyesters;

25 (ii) Polymerisation and Copolymerisation products including Polyethylene and Polytetrahaloethylene, Polyisobutylene, Polystyrene, Polyvinyl chloride, Polyvinyl acetate, Polyvinyl Chloroacetate and other Polyvinyl derivatives, Polyamides, Polyacrylic and Poly-methacrylic derivatives and Coumarone-Indene resins; and

30 (iii) Cellulose acetate (including di-or tri-acetate), Cellulose acetate butyrate and Cellulose propionate, Cellulose acetate-propionate, Ethyl cellulose and Benzyl cellulose, whether plasticised or not, and plasticised Cellulose nitrate.

35 (2) Articles made of plastics, all sorts, including tubes, rods, sheets, foils, sticks, other rectangular or profile shapes, whether laminated or not, and whether rigid or flexible, including layflat tubings and Polyvinyl chloride sheets.

40 *Explanation.*—For the purpose of sub-item (2), ‘plastics’ means the various artificial or synthetic resins or plastic material included in sub-item (1).”;

(g) in Item No. 17, for sub-items (1) to (10), the following sub-items shall be substituted, namely:—

45 “(1) Cigarette tissue . . . One rupee per kilogram.
(2) Blotting, toilet, target, tissue other than cigarette tissue, teleprinter, . . . Fifty naye paisa per kilogram.”

typewriting, manifold, bank,
bond, art paper, chrome paper,
tubsized paper, cheque paper, stamp
paper, cartridge paper, parchment,
and coated board (including art
board, chrome board and board
for playing cards). 5

(3) Printing and writing paper, packing Thirty-five naye paise per
and wrapping paper, strawboard and kilogram. 10
pulp-board, including grey board,
corrugated board, duplex and triplex
boards, other sorts.

(4) All other kinds of paper and Fifty naye paise per kilogram.”;
paperboard not otherwise specified.

(h) in Item No. 18, for the entry in the third column, the 15
entry “Nine rupees per kilogram” shall be substituted;

(i) for Item No. 18A, the following Item shall be substi-
tuted, namely:—

“18A. COTTON TWIST, YARN AND THREAD, ALL
SORTS, sized or unsized, in all forms including skeins, 20
hanks, cops, cones, bobbins, pirns, spools, reels, cheeses,
balls or on warp beams, in or in relation to the manufac-
ture of which any process is ordinarily carried on with
the aid of power—

(1) of counts 29 or more; . One rupee per kilogram. 25

(2) of counts less than 29. Fifty naye paise per kilogram.

Explanation.—(1) ‘Count’ means the size of grey
yarn expressed as the number of 1000 metre hanks
per one-half kilogram.

(2) For multiple fold yarn, ‘count’ means the 30
count of the basic single yarn.”;

(j) in Item No. 18B—

(a) for sub-item (1), the following sub-item shall be
substituted, namely:—

“(1) worsted yarn— 35

(a) of 48s counts and more; . Twenty per cent. *ad valorem*.

(b) of less than 48s counts. . Fifteen per cent. *ad valorem*.”;

(b) the following *Explanation* shall be inserted at
the end, namely:—

“*Explanation.*—‘Count’ means the size of single 40
yarn expressed as the number of 560 yard hanks per
pound.”;

(k) for Item No. 25, the following Item shall be substituted, namely:—

5 "25. IRON IN ANY CRUDE FORM including pig iron, scrap iron, molten iron or iron cast in any other shape or size. Forty-five rupees per metric tonne."†

(l) for Item No 26, the following Item shall be substituted, namely :—

"26. STEEL INGOTS including steel melting scrap. Fifty rupees per metric tonne.";

10 (m) in Item No. 26AA—

(i) for the entry in the third column against each of the sub-items (i) and (ia), the entry "Forty rupees per metric tonne plus the excise duty for the time being leviable on steel ingots" shall be substituted;

15 (ii) for sub-items (ii) and (iii), the following sub-items shall be substituted, namely:—

20 "(ii) Plates and sheets (including uncoated plates and sheets intended for tinning). One hundred and fifty rupees per metric tonne plus the excise duty for the time being leviable on steel ingots. all sorts, and hoops and strips, other than skelp. other than skelp.

(iii) Skelp. One hundred and fifty rupees per metric tonne plus the excise duty for the time being leviable on steel ingots.";

25 (n) in Item No. 27, for the entry in the second column against sub-item (b), the entry "Manufactures, the following, namely, plates, sheets, circles, strips and extruded shapes and sections in any form or size." shall be substituted;

30 (o) in Item No. 33B, for the entry in the second column against sub-item (i), the entry "Insulated copper wires and cables, whether sheathed or unsheathed, any core of which, not being one specially designed as a pilot core, has a sectional area of less than 8·0645 square millimetres and wires and cables of other metals and alloys of not more than equivalent conductivity." shall be substituted;

35 (p) in Item No. 34,—

(i) after sub-item (3), the following sub-item shall be inserted, namely:—

"(3a) Tractors, including agricultural tractors. Ten per cent. *ad valorem*.";

40 (ii) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—For the purposes of this Item, where a motor vehicle is mounted, fitted or fixed with

any weight-lifting, earth moving and similar specialised material handling equipment, then such equipment other than the chassis shall not be taken into account.”;

(q) for Item No. 36, the following Item shall be substituted, namely:—

“36. FOOTWEAR AND PARTS THEREOF in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power.

(1) Footwear Ten per cent. *ad valorem*. 10

(2) Parts of footwear Fifteen per cent. *ad valorem*.

Explanation.—‘Footwear’ includes all varieties of footwear, whether known as boots, shoes, sandals, chappals, or by any other name.”.

Special
duty of
excise on
certain
goods.

61. (1) When goods of the description mentioned in this section chargeable with a duty of excise under the First Schedule to the Central Excises Act, as amended by this Act or any subsequent Act of Parliament or under that Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall be levied and collected— 15 20

(a) as respects goods comprised in Items Nos. 6, 8, 9, 14D, 22A, 23A except sub-item (1) thereof, 23B, 28, 29, sub-items (2) and (3) of Item No. 31 and Item No. 32 of that Schedule, a special duty of excise equal to 10 per cent. of the total amount so chargeable on such goods; 25

(b) as respects goods comprised in Items Nos. 2, 3(1), sub-items I, II(2) and II(3) of Item No. 4, Items Nos. 13, 14, 14F, 15, 15A, 15B, 16, 16A, 17, 18A(2), 21, 22, 23, 23A(1), 27, 30, 31(1), 33, sub-items (1), (3a) and (4) of Item No. 34 and Item No. 37 of that Schedule, a special duty of excise equal to 20 per cent. of the total amount so chargeable on such goods; and 30

(c) as respects goods comprised in Items Nos. 4 II(1), 18, 18A(1), 18B, 20, 29A, 33A, sub-items (2) and (3) of Item No. 34 and radiograms comprised in Item No. 37A of that Schedule, a special duty of excise equal to 33 1/3 per cent. of the total amount so chargeable on such goods. 35

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1965 except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act. 10 of 1897 40

(3) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force and such special duties shall be levied for purposes of the Union and the proceeds thereof shall not be distributed among the States.

(4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the duty of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules.

62. (1) There shall be levied and collected, with effect from such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all goods mentioned in the First Schedule to the Central Excises Act as amended by this Act or any subsequent Act of Parliament, a regulatory duty of excise which shall be fifteen per cent. of the value of the goods as determined in accordance with the provisions of section 4 of the Central Excises Act :

Provided that different dates may be specified by the Central Government for different kinds of goods.

(2) Sub-section (1) shall cease to have effect after the 30th day of April, 1965, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force and such regulatory duties shall be levied for purposes of the Union and the proceeds thereof shall not be distributed among the States.

(4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the regulatory duty of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules.

(5) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be placed before each House of Parliament.

Discontin-
nuance of
salt duty.

63. For the year beginning on the first day of April, 1964, no duty under the Central Excises Act, or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India. 5

Amend-
ment of
Act 16 of
1955.

64. In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.—

(a) in section 2,—

(i) in clause (h), for the words and figures “and which is a dangerous drug within the meaning of the Dangerous Drugs Act, 1930”, the words “and includes all alkaloids of opium”, shall be substituted; 10

(ii) for clause (i), the following clause shall be substituted, namely :—

“(i) ‘opium’ means— 15

(i) the capsules of the poppy (*Papaver somniferum* L), whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom;

(ii) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and 20

(iii) any mixture, with or without neutral materials, of any of the above forms of opium, and includes any derivative of opium;” 25

(b) for the Schedule, the following Schedule shall be substituted, namely :—

“THE SCHEDULE

(See section 3) 30

Item No.	Description of dutiable goods	Rate of duty
----------	-------------------------------	--------------

Medicinal Preparations

1. Allopathic Medicinal Preparations:—

(i) Medicinal preparations containing alcohol which are not capable of being consumed as ordinary alcoholic beverages— 35

(a) Patent or proprietary medicines . Ten per cent. *ad valorem* or rupee one and ten naye paise per litre of the strength of London proof spirit, whichever is higher. 40

Item No.	Description of dutiable goods	Rate of duty
5	(b) Others	Rupee one and ten naye paise per litre of the strength of London proof spirit.
	(ii) Medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages—	
10	(a) Medicinal preparations which contain known active ingredients in therapeutic quantities.	Ten per cent, <i>ad valorem</i> or rupees three and eighty-five naye paise per litre of the strength of London proof spirit, whichever is higher
15	(b) Others	Rupees fifteen and fifty naye paise per litre of the strength of London proof spirit.
	(iii) Medicinal preparations not containing alcohol but containing opium, Indian hemp or other narcotic drug or narcotic.	Ten per cent. <i>ad valorem</i> .
20		
2.	Medicinal preparations in Ayurvedic, Unani or other indigenous systems of medicine—	
	(i) Medicinal preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages.	<i>Nil</i> .
25	(ii) Medicinal preparations containing self-generated alcohol which are capable of being consumed as ordinary alcoholic beverages.	Thirty-eight naye paise per litre of the strength of London proof spirit.
30	(iii) All others containing alcohol which are prepared by distillation or to which alcohol has been added.	Rupees fifteen and fifty naye paise per litre of the strength of London proof spirit.
	(iv) Medicinal preparations not containing alcohol but containing opium, Indian hemp, or other narcotic drug or narcotic.	Ten per cent. <i>ad valorem</i> .
35		
3.	Homoeopathic preparations containing alcohol.	Rupees three and eighty-five naye paise per litre of the strength of London proof spirit.
40	<i>Toilet Preparations</i>	
4.	Toilet preparations containing alcohol, or opium, Indian hemp, or other narcotic drug or narcotic.	Twenty-five per cent. <i>ad valorem</i> or rupees three and eighty-five naye paise per litre of the strength of London proof spirit, whichever is higher.
45		

Explanation I.—'Patent or proprietary medicines' means any medicinal preparation which bears either on itself or on its container or both, a name which is not specified in a monograph in a Pharmacopoeia, Formulary or other publications notified in this behalf by the Central Government in the Official Gazette, or which is a brand name, that is, a name or a registered trade mark under the Trade and Merchandise Marks Act, 1958 or any other mark such as a symbol,

monogram, label, signature or invented words or any writing which is used in relation to that medicinal preparation for the purpose of indicating or so as to indicate a connection in the course of trade between the preparation and some person having the right either as proprietor or otherwise to use the name or mark with or without any indication of the identity of that person.

Explanation II.—Where any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be the value as determined in accordance with the provisions of section 4 of the Central Excises and Salt Act, 1944.

1 of 1944.
10

Explanation III.—'London proof spirit' means that mixture of ethyl alcohol and distilled water which at the temperature of 51 degrees Fahrenheit weighs exactly 12/13th parts of an equal measure of distilled water at the same temperature.

Explanation IV.—Where in respect of any dutiable goods the unit of assessment for the purpose of any duty under this Act is a litre of the strength of London proof spirit, the duty shall be increased or reduced in such proportion as the strength of the dutiable goods is greater or less than that of the London proof spirit."

Amend-
ment of
Act 21 of
1963.

65. In the Compulsory Deposit Scheme Act, 1963, in section 4, after sub-section (9), the following sub-sections shall be inserted namely:—

"(9A) If any person has deposited any amount under the provisions of sub-section (3) or sub-section (4) which is in excess of the amount of additional surcharge payable by him, such excess shall, on an application made by that person, be refunded to him with interest due thereon, in such manner as the Central Government thinks fit.

(9B) If any person who is liable to pay advance tax under the Income-tax Act has made a deposit under the provisions of sub-section (5) in the financial year commencing on the first day of April, 1963, the amount of such deposit shall, on an application made by that person, be refunded to him with interest due thereon, in such manner as the Central Government thinks fit."

Declaration under the Provisional Collection of Taxes Act, 1931

35

It is hereby declared that it is expedient in the public interest that the provisions of clauses 56, 57, 59, 60, 61 and 64 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931.

16 of 1931.

THE FIRST SCHEDULE

(See section 2)

PART I

Income-tax and surcharge on income-tax

Paragraph A

(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs. 20,000 in either case—

Rates of Income-tax

10	Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener.	Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener.	Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener.
15			

	Rs.	Rs.	Rs.	
(1) On the first	3,000 of total income	3,300 of total income	3,600 of total income	<i>Nil</i> .
(2) On the next	2,000 „	1,700 „	1,400 „	6%
20 (3) On the next	2,500 „	2,500 „	2,500 „	10%
(4) On the next	5,000 „	5,000 „	5,000 „	15%
(5) On the next	7,500 „	7,500 „	7,500 „	20%

(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs. 20,000 and in the case of every unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies:—

30 (1) On the first	Rs. 1,000 of total income	.	.	.	.	.	<i>Nil</i>
(2) On the next	Rs. 4,000 of total income	.	.	.	.	.	6%
(3) On the next	Rs. 2,500 of total income	.	.	.	.	.	10%
(4) On the next	Rs. 5,000 of total income	.	.	.	.	.	15%
(5) On the next	Rs. 7,500 of total income	.	.	.	.	.	20%
35 (6) On the balance of total income	.	.	.	.	.	.	25%

Provided that for the purposes of this Paragraph—

(i) no income-tax shall be payable on a total income which does not exceed the limit specified below;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit; 5

(iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs. 20,000 shall not exceed the aggregate of—

(a) the income-tax which would have been payable if the total income had been Rs. 20,000; 10

(b) half the amount by which the total income exceeds Rs. 20,000.

The limit aforesaid shall be—

(i) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the 15 following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age; or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other 20 and who are not lineally descended from any other living member of the family;

(ii) Rs. 3,000 in every other case.

Surcharge on income-tax

The amount of income-tax computed at the rates hereinbefore 25 specified shall be increased by a surcharge for purposes of the Union, which shall be equal to the aggregate of the sums computed as hereunder:—

(a) where the amount of the income other than earned income, if any, included in the total income exceeds Rs. 10,000, a 30 sum calculated on the difference between the amount of income-tax on the total income and the amount of income-tax on the

whole of the earned income, if any, included in the total income if such earned income had been the total income, at the following rate, namely:—

5 (i) where the amount of the at the rate of 12·5%:
income other than the earned
income, if any, included in the total
income exceeds Rs. 10,000 but does
not exceed Rs. 25,000.

10 Provided that the amount of surcharge payable under
this clause shall in no case exceed one-tenth of the amount
by which the income other than the earned income exceeds
Rs. 10,000;

15 (ii) where the amount of the at the rate of 15%:
income other than the earned
income, if any, included in the total
income exceeds Rs. 25,000 but does
not exceed Rs. 75,000.

20 Provided that the surcharge payable under this clause
shall in no case exceed the aggregate of the following sums,
namely:—

(1) an amount calculated at the rate of twelve and a
half per cent. on the amount of income-tax on an income
of Rs. 25,000, if such income had been the total income
25 (the income of Rs. 25,000 for this purpose being computed
as if such income included income from various sources
in the same proportion as the total income of the person
concerned);

(2) one-tenth of the amount by which the income
other than the earned income exceeds Rs. 25,000;

30 (iii) where the amount of the at the rate of 17·5%:
income other than the earned
income, if any, included in the total
income exceeds Rs. 75,000.

35 Provided that the surcharge payable under this clause
shall in no case exceed the aggregate of the following sums,
namely:—

(1) an amount calculated at the rate of fifteen per
cent. on the amount of income-tax on an income

Rs. 75,000, if such income had been the total income (the income of Rs. 75,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned);

(2) one-tenth of the amount by which the income other than the earned income exceeds Rs. 75,000;

(b) where the earned income included in the total income exceeds Rs. 1,00,000, a sum calculated at ten per cent. of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of income-tax payable on a total income of Rs. 1,00,000.

Paragraph B

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30%

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of five per cent. of the amount of income-tax.

Paragraph C

In every case in which under the provisions of the Income-tax Act income-tax is to be charged at the maximum rate,—

Rate of income-tax

On the whole of the total income 25%

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of 17·5 per cent. of the amount of income-tax.

Paragraph D

In the case of every company,—

Rate of income-tax

On the whole of the total income 25%:

Provided that a rebate at the rate of ten per cent. on so much of the total income as consists of dividends from an Indian company which is not such a company as is referred to in section 108 of the

Income-tax Act and which is wholly or mainly engaged in the business of generation and distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in Part IV of this Schedule, shall be allowed in the case of a company which has not made the prescribed arrangements for the declaration and payment of dividends within India.

Paragraph E

In the case of every registered firm,—

Rates of income-tax

10	(1) On the first Rs. 25,000 of total income	..	..	Nil
	(2) On the next Rs. 25,000 of total income	..	..	6%
	(3) On the next Rs. 50,000 of total income	...	...	8%
	(4) On the balance of total income	...	...	12%

Surcharge on income-tax

15 The amount of income-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union equal to the sum of—

(i) twenty per cent. of the amount of income-tax payable by the firm on its income from any business carried on by it calculated at the average rate of income-tax applicable to its total income; and

(ii) ten per cent. of the amount of income-tax payable by it on its income from all sources other than from any business carried on by it calculated at the average rate of income-tax applicable to its total income.

PART II

Super-tax and surcharge on super-tax

Paragraph A

In the case of every individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of super-tax

35	(1) On the first Rs. 20,000 of total income	...	...	Nil
	(2) On the next Rs. 5,000 of total income	...	...	10%
	(3) On the next Rs. 5,000 of total income	...	...	15%
	(4) On the next Rs. 20,000 of total income	..	...	30%
	(5) On the next Rs. 20,000 of total income	...	...	45%
40	(6) On the balance of total income	...	...	50%

Surcharge on super-tax

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union, which shall be equal to the aggregate of the sums computed as hereunder:—

(a) where the amount of income other than earned income, if any, included in the total income exceeds Rs. 10,000, a sum calculated on the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income, at the following rate, namely:—

(i) where the amount of the income other than the earned income, if any, included in the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 : at the rate of 12·5%

Provided that the amount of surcharge payable under this clause shall in no case exceed one-eighth of the amount by which the income other than the earned income exceeds Rs. 10,000 ;

(ii) where the amount of income other than the earned income, if any, included in the total income exceeds Rs. 25,000 but does not exceed Rs. 75,000 : at the rate of 15%

Provided that the surcharge payable under this clause shall in no case exceed the aggregate of the following sums, namely :—

(1) an amount calculated at the rate of twelve and a half per cent. on the amount of super-tax on an income of Rs. 25,000, if such income had been the total income (the income of Rs. 25,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned);

(2) one-eighth of the amount by which the income other than the earned income exceeds Rs. 25,000 ;

(iii) where the amount of the income other than the earned income, if any, included in the total income exceeds Rs. 75,000 : at the rate of 17·5%

Provided that the surcharge payable under this clause shall in no case exceed the aggregate of the following sums, namely :—

(1) an amount calculated at the rate of fifteen per cent. on the amount of super-tax on an income of Rs. 75,000, if such income had been the total income (the income of Rs. 75,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned);

(2) one-eighth of the amount by which the income other than the earned income exceeds Rs. 75,000 ;

(b) where the earned income included in the total income exceeds Rs. 1,00,000, a sum calculated at ten per cent. of the difference between the amount of super-tax which would have been

payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs. 1,00,000.

Paragraph B

5 In the case of every local authority,—

Rate of super-tax

On the whole of the total income . . . 16%

Surcharge on super-tax

The amount of super-tax computed at the rate hereinbefore speci-
10 fied shall be increased by a surcharge for purposes of the Union of
12½ per cent. of the amount of super-tax.

Paragraph C

In the case of every association of persons being a co-operative society as defined in clause (19) of section 2 of the Income-tax Act,—

15 *Rates of super-tax*

- | | |
|---|--------|
| (1) On the first Rs. 25,000 of total income | .. Nil |
| (2) On the balance of total income | .. 16% |

Surcharge on super-tax

The amount of super-tax computed at the rates hereinbefore speci-
20 fied shall be increased by a surcharge for purposes of the Union of
12½ per cent. of the amount of super-tax.

Paragraph D

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation
31 of 956. 25 Act, 1956,—

Rates of super-tax

On the whole of the total income . . . 55%:

Provided that—

(i) a rebate at the rate of 37·5 per cent. on the total income
30 shall be allowed in the case of any company which—

(a) in respect of its profits liable to tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1964, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions
35 of section 194 of that Act; and

(b) is such a company as is referred to in section 108 of the Income-tax Act with a total income not exceeding Rs. 25,000;

(ii) a rebate at the rate of 35 per cent. on so much of the total income as consists of profits and gains attributable to the business of generation and distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in Part IV of this Schedule; and at the rate of 30 per cent. on the balance of the total income shall be allowed in the case of a company which satisfies condition (a) of the preceding clause and which is such a company as is referred to in section 108 of the Income-tax Act with a total income exceeding Rs. 25,000;

(iii) a rebate at the rate of 26 per cent. on so much of the total income as consists of profits and gains attributable to the business of generation and distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in Part IV of this Schedule; and at the rate of 20 per cent. on the balance of the total income shall be allowed in the case of a company which satisfies condition (a) of clause (i) and which is not such a company as is referred to in section 108 of the Income-tax Act;

(iv) a rebate at the rate of 30 per cent. on so much of the total income as consists of royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government; at the rate of 30 per cent. on so much of the total income as consists of fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 and which has been approved by the Central Government; and at the rate of 15 per cent. on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under any of the preceding clauses :

Provided further that—

(i) the amount of the rebate under clause (i) or clause (ii) or clause (iii) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts; as the case may be, computed as hereunder :—

(a) on the aggregate of the sums computed in the manner provided in clause (i) of the second proviso to Paragraph D of Part II of the First Schedule to the Finance Act, 1963 as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned in clause (i) of the said proviso to nil;

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13 of 1963.

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(b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital, and at the rate of 12½%

5 (c) in addition, in the case of a company referred to in clause (i) or clause (ii) or clause (iii) of the preceding proviso (being such an Indian company as is not referred to in section 108 of the Income-tax Act and whose business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power or any company as is referred to in section 108 of the said Act) which has declared or distributed to its shareholders during the previous year any dividends other than dividends on preference shares—

15 (A) in the case of a company which since the date of the commencement of its activities has declared or distributed any dividends for the first time during the previous year or any one of the four previous years immediately preceding such previous year —

20 on that part of the dividends other than dividends on preference shares which exceeds 10 per cent. of the paid-up capital at the rate of 7½%

(B) in any other case —

25 on the whole amount of the dividends other than dividends on preference shares at the rate of 7½%

(ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii) or clause (iii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a), (b) and (c) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to nil shall be deemed to have been taken into account for the purpose :

35 Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

40 (a) the super-tax which would have been payable by the company if its total income had been Rs. 25,000 (the income of Rs. 25,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) fifty-five per cent. of the amount by which its total income exceeds rupees twenty-five thousand.

45 *Explanation.*—For the purposes of this paragraph, where a part of the income of a company is not included in its total income because

it is agricultural income, the amount declared or distributed as dividends (other than dividends on preference shares), the amount representing the face value of any bonus shares and the amount of any bonus issued to its share-holders shall each be deemed to be such proportion thereof as the sum specified in clause (a) bears to the sum specified in clause (b), such sums being—

(a) the average amount of the total income of the company in the five previous years in which it has been in receipt of taxable income immediately preceding the relevant previous year; and

(b) the average amount of the total profits and gains (excluding capital receipts) of the company for the five previous years referred to in clause (a) reduced by such allowances as may be admissible under the Income-tax Act but which have not been taken into account by the company in its profit and loss accounts for the said five previous years.

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

31 of 1956.

Rate of super-tax

On the whole of its profits and gains from life insurance business

22.5%

PART III

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates:—

	Income-tax		Super-tax	
	Rate of income-tax	Rate of surcharge	Rate of super-tax	Rate of surcharge

1. In the case of a person other than a company—

(a) where the person is resident—

(i) on the income from dividends payable by an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India;

18%

2%

Nil

Nil

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		Income-tax		Super-tax	
		Rate of income-tax	Rate of surcharge	Rate of super-tax	Rate of surcharge
5	(ii) on any other income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free, and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government);	25%	4 37%	Nil	Nil
10					
15	(b) where the person is not resident in India—				
20	(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free, and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government);	25%	4 37%	Super-tax and surcharge on super-tax in accordance with the provisions of clause (b) of subsection (1) of section 113 of the Income-tax Act.	
25	(ii) on the income from interest payable on any security of the Central Government issued or declared to be income-tax free and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government.	Nil.	Nil.	Super-tax and surcharge on super-tax in accordance with the provisions of clause (b) of subsection (1) of section 113 of the Income-tax Act.	
30					

		Rate of income-tax	Rate of super-tax
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35 2. In the case of a company—

	(a) where the company is either an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—		
40	(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free, and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government); and	25%	..
45	(ii) on the whole income (excluding dividends payable by an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India);	..	5%
50	(b) where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—		
55	(i) on the income from dividends payable by an Indian company which is not such a company as is referred to in section 108 of the Income-tax Act, and which		

	Rate of income-tax	Rate of super-tax	
is wholly or mainly engaged in the business of generation and distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in Part IV of this Schedule;	15%	Nil.	5
(iv) on the income from dividends payable by any other Indian company or any company which has made the prescribed arrangements for the declaration and payment of dividends within India;	25%	Nil.	10
(iii) on the income from royalties payable by an Indian concern in pursuance of an agreement which is made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government;	25%	15%	15
(iv) on the income from fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 and which has been approved by the Central Government;	25%	15%	20
(v) on the income from interest payable on any security of the Central Government issued or declared to be income-tax free and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government; and	Nil.	40%	25
(vi) on any other income	25%	40%.	

PART IV

List of articles

- (1) Iron and steel (metal), ferro-alloys and special steels. 30
- (2) Aluminium, copper, lead and zinc.
- (3) Coal, lignite, iron ore and bauxite.
- (4) Industrial machinery specified under the heading "8. Industrial Machinery", sub-heading "A. Major items of specialised equipment used in specific industries", of the First Schedule to the Industries (Development and Regulation) Act, 1951. 35
65 of 1951
- (5) Boilers and steam generating plants, steam engines and turbines and internal combustion engines.
- (6) Equipment for the generation, transmission and distribution of electricity, including transformers. 40
- (7) Machine tools, precision tools, dies and jigs.
- (8) Tractors and earth-moving machinery.
- (9) Steel castings and forgings.
- (10) Cement and refractories.

(11) Fertilisers.

(12) Paper and pulp.

(13) Tea, coffee and rubber.

(14) Component parts of the articles mentioned in items Nos. (4), 5 (5), (6) and (8), that is to say, such parts as are essential for the working of the machinery referred to in items aforesaid and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose and are in complete finished form and ready for fitment.

10

THE SECOND SCHEDULE

(See section 3)

Rates of Annuity Deposits

(i) In the case of any depositor whose total income does
15 not exceed Rs. 15,000. .. Nil.

(ii) In the case of any depositor whose total income exceeds
Rs. 15,000 but does not exceed Rs. 20,000—

5 per cent. of the adjusted total income :

Provided that the annuity deposit to be made shall in no case
20 exceed half the amount by which the total income exceeds Rs. 15,000.

(iii) In the case of a depositor whose total income exceeds
Rs. 20,000 but does not exceed Rs. 40,000—

7½ per cent. of the adjusted total income :

Provided that the annuity deposit to be made shall in no case
25 exceed the aggregate of the following sums, namely :—

(a) an amount calculated at five per cent. on so much of the
adjusted total income as does not exceed Rs. 20,000;

(b) one-half of the amount by which the total income
exceeds Rs. 20,000.

30 (iv) In the case of a depositor whose total income exceeds
Rs. 40,000 but does not exceed Rs. 70,000—

10 per cent. of the adjusted total income :

Provided that the annuity deposit to be made shall in no case
exceed the aggregate of the following sums, namely :—

35 (a) an amount calculated at seven and a half per cent. on so
much of the adjusted total income as does not exceed Rs. 40,000;

(b) one-half of the amount by which the total income
exceeds Rs. 40,000.

(v) In the case of a depositor whose total income exceeds Rs. 70,000—

12½ per cent. of the adjusted total income :

Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely :— 5

(a) an amount calculated at ten per cent. on so much of the adjusted total income as does not exceed Rs. 70,000;

(b) one-half of the amount by which the total income exceeds Rs. 70,000.

Explanation.—In this Schedule, “total income” means total income 10 computed in the manner laid down in the Income-tax Act without making any allowance under section 280O of that Act.

THE THIRD SCHEDULE

(See section 56)

PART I

15

In the First Schedule to the Tariff Act,—

(i) in Item No. 28 (34),—

(1) for the entry in the fourth column against sub-item (a), the entry “70 per cent. *ad valorem*” shall be substituted;

(2) for the entry in the fourth column against sub-item 20 (b), the entry “80 per cent. *ad valorem*” shall be substituted; and

(ii) in Item No. 63 (32),—

(1) for the entry in the fourth column against sub-item (a), the entry “Rs. 50·00 per tonne *plus* 25 per cent. 25 *ad valorem*” shall be substituted;

(2) for the entry in the fourth column against sub-item (b), the entry “Rs. 84·00 per tonne *plus* 25 per cent. *ad valorem*” shall be substituted.

PART II

5 Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufac- ture of		Duration of protec- tive rates of duty
				The United King- dom	A British Colony	
10	1	2	3	4	5	6
						7
In the First Schedule to the Tariff Act, for Item No. 8(2), the following Item shall be substituted, namely:—						
15	“8(2) Fruits, dried (salted and all other kinds) not otherwise specified—					
	(A) Almonds—					
20	(a) without shell .	Preferen- tial Revenue.	Rs. 430·00 per quintal.	..	Rs. 430·00 per quintal less 10 per cent. <i>ad va- lorem.</i>	..
	(b) in the shell—					
25	(i) soft shell.	Preferen- tial Revenue.	Rs. 250·00 per quintal.	..	Rs. 250·00 per quintal less 10 per cent. <i>ad valorem.</i>	..
30	(ii) hard shell.	Preferen- tial Re- venue.	Rs. 140·00 per quintal.	..	Rs. 140·00 per quintal less 10 per cent. <i>ad valorem.</i>	..
35	(B) Dates, dry, excluding seedless—					
40	(a) Shekra or Shakeria, Sakina and Brami.	Preferen- tial Re- venue.	Rs. 75·00 per quintal.	..	Rs. 75·00 per quintal less 10 per cent. <i>ad va- lorem.</i>	..
45	(b) Kapkapa, Chharra, Chupchap, Sarki, Sori, Omani and Bhatni.	Preferen- tial Re- venue.	Rs. 50·00 pe quintal.	..	Rs. 50·00 per quintal less 10 per cent. <i>ad valorem.</i>	..
50	(c) All other qualities.	Preferen- tial Re- venue.	Rs. 35·00 per quintal.	..	Rs. 35·00 per quintal less 10 per cent. <i>ad valorem.</i>	..

1	2	3	4	5	6	7
(C) Dates, wet, excluding seedless, in bags, baskets, gunny cloth or matting bundles.	Preferential Revenue.	Rs. 15.00 per quintal.	..	Rs. 15.00 per quintal less 10 per cent. <i>ad valorem</i> .	..	5
(D) Pistachio nuts—						
(a) with shell.	Preferential Revenue.	Rs. 200.00 per quintal.	..	Rs. 200.00 per quintal less 10 per cent. <i>ad valorem</i> .	..	10
(b) without shell.	Preferential Revenue.	Rs. 300.00 per quintal.	..	Rs. 300.00 per quintal less 10 per cent. <i>ad valorem</i> .	..	15
(E) Raisins—						
(a) Red, including Gul-dani and Lalmewa, in all packings and containers.	Preferential Revenue.	Rs. 100.00 per quintal.	..	Rs. 100.00 per quintal less 10 per cent. <i>ad valorem</i> .	..	20
(b) Black, including black Monacca, in all packings and containers.	Preferential Revenue.	Rs. 130.00 per quintal.	..	Rs. 130.00 per quintal less 10 per cent. <i>ad valorem</i> .	..	25
(c) All other sorts, including Monacca and Abjosh, in all packings and containers.	Preferential Revenue.	Rs. 200.00 per quintal.	..	Rs. 200.00 per quintal less 10 per cent. <i>ad valorem</i> .	..	30
(F) Other sorts	Preferential Revenue.	60 per cent. <i>ad valorem</i> .	..	50 per cent. <i>ad valorem</i> .	..	35

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to give effect to the financial proposals of the Central Government for the financial year 1964-65 and to provide for certain connected matters. The Bill, *inter alia*, proposes to make certain categories of assessee liable to annuity deposit. This is with a view to augment the resources of the nation for national development. The Notes on clauses explain the various provisions contained in the Bill.

T. T. KRISHNAMACHARI.

NEW DELHI;

The 29th February, 1964.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117
AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 3(16)-B/64, dated the 29th February, 1964 from Shri T. T. Krishnamachari, Minister of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill, recommends under article 117(1) and (3) read with article 274(1) of the Constitution of India, the introduction of the Finance Bill, 1964 to the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

* * * * *

Notes on clauses

Clause 2 prescribes the rates of income-tax, super-tax and surcharge thereon for the assessment year 1964-65 and also the rates at which tax is to be deducted at source from salaries, interest on securities, dividends and other income during the financial year 1964-65. In the case of individuals, Hindu undivided families, unregistered firms, associations of persons, etc., the slab structure and the basic rates of income-tax and super-tax applicable for the assessment year 1963-64 have been replaced by a new slab structure and rates of tax. The various surcharges on income-tax and super-tax (including the additional surcharge on income-tax) leviable for the assessment year 1963-64 have also been substituted by a single surcharge on income-tax and on super-tax for purposes of the Union, which will be leviable where the earned income exceeds Rs. 1 lakh or where the unearned income exceeds Rs. 10,000.

In the case of registered firms also, a single revised rate schedule of income-tax has been prescribed for all registered firms, irrespective of the number of partners in such a firm. However, the rate of Union surcharge on income-tax payable by registered firms remains the same as for the assessment year 1963-64.

In the case of companies, the rate of income-tax remains the same as for the assessment year 1963-64. However, companies which declare and pay their dividends outside India, i.e., foreign companies will be entitled to a rebate of income-tax of 10 per cent. of the amount of dividends received by them from an Indian company in which the public is not substantially interested and which is carrying on the business of generation and distribution of electricity or is wholly or mainly engaged in the manufacture or production of any one or more of the articles specified in the list in Part IV of the First Schedule to the Bill.

Some changes have been made in the rates at which super-tax will be payable by companies. In the case of Indian companies and other companies which declare and pay dividends in India, the changes are, briefly, as follows. Companies in which the public are substantially interested and whose total income does not exceed Rs. 25,000 will be charged to super-tax at 17·5 per cent. as compared with the rate of 20 per cent. for the assessment year 1963-64. In the case of companies in which the public are substantially interested and whose total income exceeds Rs. 25,000 the normal effective rate of super-tax will be 25 per cent. as for the assessment year 1963-64.

However, if such a company derives any income from the generation and distribution of electricity or from the production of any one or more of the articles in the basic industries specified in Part IV of the First Schedule to the Bill, the super-tax payable by it in respect of such income will be 20 per cent. only. In the case of companies in which the public is not substantially interested, the effective rate of super-tax is proposed to be increased from 25 per cent. (which was applicable for the assessment year 1963-64) to 35 per cent. However, if any such company derives income from the generation and distribution of electricity or from the production of any of the articles specified in the list in Part IV of the First Schedule to the Bill, the super-tax payable on such income will be only 29 per cent. Further, in the case of companies other than those which are required to make a compulsory distribution of dividends under terms of section 104 of the Income-tax Act, a provision has been made for charging an extra amount of super-tax calculated at 7.5 per cent. of the whole amount of dividends *on equity capital*, distributed by them during the previous year relevant to the assessment year 1964-65. However, in the case of a new company which since the commencement of its activities declared its first dividend not earlier than the period of five consecutive previous years (including the relevant previous year), this super-tax will be calculated only on that amount of the dividends which exceeds 10 per cent. of its paid up equity capital.

In the case of companies which have not made the prescribed arrangements for the declaration and payment of dividends within India, the rate of super-tax has been increased from 38 per cent. (applicable for assessment year 1963-64) to 40 per cent. However, it has been provided that on their income by way of royalties and fees for rendering technical services, received from an Indian concern under an agreement approved by the Central Government, the rate of super-tax will be only 25 per cent.

Some changes have also been made in the rates of deduction of tax at source, specified in Part III of the First Schedule to the Bill. In the case of shareholders who are resident in India, the rate of deduction of income-tax will be 20 per cent. as compared with 25 per cent. for the financial year 1963-64. In the case of companies, there will be no deduction of super-tax from their income by way of dividends, as it is proposed to introduce a provision in the Income-tax Act exempting inter-corporate dividends from super-tax.

The provision in the Finance Act, 1963 for a rebate of 10 per cent. of the income-tax and super-tax on income derived from the export

of goods or merchandise outside India and also the rebate of income-tax and super-tax to manufacturers on 2 per cent. of their exports or sales in India for export is proposed to be continued. However, the second-mentioned concession would not apply in respect of export of certain articles such as arms and ammunition, photographic films, newsprint, etc., and would be newly extended to exports made after the 29th day of February, 1964 of non-jute textiles.

Clause 3 prescribes the rates at which annuity deposits in respect of the assessment year 1964-65 and advance annuity deposits for the financial year 1964-65 will be required to be made by individuals, Hindu undivided families, unregistered firms, associations of persons, etc. under the provisions sought to be introduced by clause 44 of the Bill.

Clause 4 seeks to amend clause (24) of section 2 of the Income-tax Act. These amendments are consequential to the amendments to the Income-tax Act under clauses 7 and 44 of the Bill.

Clause 5 seeks to omit the proviso to clause (b) of the Explanation to sub-section (1) of section 9 of the Income-tax Act. The effect of this will be that a non-resident who derives any income from purchasing goods in India and exporting them will not be liable to tax on such income.

Clause 6 seeks to amend section 10 of the Income-tax Act. The effect of these amendments will be as follows: A non-resident will be exempt from tax on his income from interest on such securities as have been approved in this behalf by the Central Government.

A foreign technician will be eligible for exemption from tax on his salary income even though his contract of service has been approved by the Central Government after the date of his arrival in India within a period of one year from such date.

Visiting professors and teachers of foreign nationality teaching in any university or educational institution in India under an approved programme will also be entitled to exemption from tax on their salary income under the same conditions as foreign technicians.

Hitherto, a non-resident could be exempted from tax on the interest received by him from an industrial undertaking in India in respect of loans or credit facilities granted by the non-resident to the said industrial undertaking for purchase of capital plant and machinery, etc. abroad, only if the full rate of interest stipulated in the agreement between the two parties was approved by the Central

Government. The proposed amendment, will enable the grant of exemption to the non-resident where the Central Government has approved in this behalf a lower rate of interest than that which has been stipulated in the agreement. The amount of interest to be exempted will be the sum calculated at the lower rate of interest approved by the Central Government.

Assessees who derive income from a business of livestock breeding or poultry or dairy farming will be exempt from tax in respect of any such income assessable for the three assessment years 1965-66, 1966-67 and 1967-68.

Clause 7 seeks to amend section 28 of the Income-tax Act to provide that the value of any benefit or perquisite, whether convertible into money or not, received by an assessee from any person in exercise of his business or profession will be assessable as the assessee's income under the head "profits and gains of business or profession".

Clause 8 seeks to amend section 33 of the Income-tax Act. The effect of these amendments will be as follows : Assessees who acquire a second hand ship from a person not resident in India or import second hand machinery from a country outside India, for the purpose of their business, after 31st March, 1964, will, subject to certain conditions, be entitled to development rebate in respect of such assets at such rate or rates as may be prescribed by the Central Board of Direct Taxes in the Income-tax Rules. The Board is also authorised to lay down any other conditions for the grant of such development rebate in the said rules.

It will also be open to the Central Government to direct by issue of a notification in the Official Gazette, that the deduction of development rebate shall not be admissible in respect of a ship acquired or machinery or plant installed after the period specified in the notification,—such period being not less than three years from the date of issue of the notification.

Clause 9 seeks to insert a new provision in section 37 of the Income-tax Act to the effect that any expenditure incurred by an assessee after 31st March, 1964 on advertisement, maintenance of any residential accommodation, travelling (including hotel expenses or allowances paid in connection with travelling) shall be allowed only to the extent and subject to such conditions as may be prescribed by the Central Board of Direct Taxes in the Income-tax Rules.

Clause 10 seeks to substitute sub-clause (iii) of clause (c) of section 40 of the Income-tax Act by a new provision. It provides

for the disallowance in the assessment of a company, of any expenditure incurred by it after 29th February, 1964 on the provision of any perquisite for its employees to the extent such expenditure exceeds one-fifth of the salary of an employee. It has been provided that certain payments such as contributions by a company to an approved superannuation fund or gratuity fund or to a recognised provident fund will not be taken into account in computing such expenditure.

Clause 11 seeks to insert a new section 44A in Chapter IV of the Income-tax Act, providing that in the case of a trade, professional or similar association which does not distribute any part of its income to its members, the amount of any deficit (excess of expenditure incurred for the advancement of the common interest of the members of the association concerned over receipts from the members) will be allowed to be deducted from the assessable income of the association to the extent of 50 per cent. of such income.

Clause 12 seeks to introduce a new provision in section 45 of the Income-tax Act under which an assessee who holds any equity shares as an investment and receives any bonus shares will be liable to be charged to income-tax under the head "Capital gains" in respect of such bonus shares, as if he had transferred the said shares at their fair market value after the expiry of 30 days from the date of issue of the said shares.

Clause 13 seeks to introduce a new provision in section 52 of the Income-tax Act providing that if in the opinion of the Income-tax Officer the fair market value of a capital asset as on the date of its transfer by an assessee exceeds the full value of consideration for it as declared by the assessee by an amount not less than 15 per cent. of such declared value, the capital gains in respect of such asset shall be computed with reference to such fair market value. Before taking action in accordance with this provision, the Income-tax Officer is required to obtain the approval of the Inspecting Assistant Commissioner of Income-tax concerned.

Clause 14 seeks to amend section 55 of the Income-tax Act. Under one of the new provisions (which is consequential to the amendment of section 45 of the Income-tax Act by clause 12 of this Bill), the 'cost of acquisition' of bonus shares in the case of an equity shareholder who transfers such shares after the expiry of 30 days from the date of their issue will (for the purpose of computing any capital gains arising on such transfer) be taken to be their fair market value as on the 31st day from the date on which the said shares were issued to him.

Under the other new provision, the 'cost of acquisition' to an assessee of any share received by him from a company in lieu of his original holdings on the reorganisation of its share capital, or conversion or reconversion of its stock or shares into shares or stock or conversion of one kind of shares into another kind, etc. will be calculated with reference to the cost to the assessee of the original shares or stock held by the assessee.

Clause 15 seeks to amend section 66 of the Income-tax Act. This amendment is consequential to the introduction by clause 19 of this Bill of a new section 87A in the Income-tax Act.

Clause 16 seeks to introduce a new section 69A in the Income-tax Act providing that if an assessee is not able to explain satisfactorily the source of any money, bullion, jewellery or valuable article found to be owned by him in any financial year, the money and the value of such jewellery, etc. may be deemed to be his income for such financial year.

Clause 17 seeks to amend section 86 of the Income-tax Act. The amendment is of a clarificatory nature.

Clause 18 seeks to amend section 87 of the Income-tax Act. One of the new provisions is that in the case of musicians, playwrights, artists, etc. the higher limits of the sums paid as life insurance premia, contributions to provident fund, etc. qualifying for rebate of tax will be applicable only to persons who have taken a life insurance policy prior to 1st March, 1964. In any other case, the usual limits laid down for individuals will apply.

Another provision is that the amount of the rebate of income-tax together with the amount of rebate of super-tax (sought to be provided under clause 22 of this Bill) in respect of sums paid by an assessee as life insurance premia, contributions to provident fund, etc., shall, cumulatively, be limited to 50 per cent. of the total amount of the sums qualifying for the rebate.

Clause 19 seeks to introduce a new section 87A in Chapter VIII-A of the Income-tax Act. It provides that a resident individual who is not a citizen of India and whose children (not above 21 years in age) are receiving education in a foreign country will be entitled to a rebate of income-tax on the amount spent by him on the education of such children. The amount qualifying for the rebate is limited to Rs. 4,000 (Rs. 2,000 for each such child up to two children) or 25 per cent. of the total income whichever is less.

Clause 20 seeks to amend clause (ii) of the *Explanation* to section 91 of the Income-tax Act. The amendment is of a clarificatory nature.

Clause 21 seeks to make two amendments to section 99 of the Income-tax Act. One of the amendments is of a clarificatory nature. The effect of the other amendment is that companies will not be liable to pay super-tax on any dividends received by them from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India.

Clause 22 seeks to introduce a new section 99A in Chapter XI-C of the Income-tax Act. This provides for the allowance of a rebate of super-tax to individuals and Hindu undivided families on so much of the sums paid by them as life insurance premia, contributions to a provident fund, deposits in the Post Office under the 'Cumulative Time Deposits' Scheme etc. which qualify for a rebate of income-tax under section 87 of the Income-tax Act.

Clause 23 seeks to make three amendments to section 104 of the Income-tax Act.

The first one of these is consequential to the amendment under clause 26 of this Bill. The next one excludes from the requirement of compulsory distribution of dividends such Indian companies (in which the public are not substantially interested) whose business consists wholly in the manufacture or processing of goods or in mining or the generation or distribution of electricity or any other form of power. The third one enables the Central Government to exempt (by issue of a notification in this behalf) any class of companies in which the public are not substantially interested from the requirement of compulsory distribution of dividends.

Clause 24 seeks to amend section 106 of the Income-tax Act. The amendment is consequential to the insertion of a new section 107A in the Income-tax Act under clause 26 of this Bill.

Clause 25 seeks to amend section 107 of the Income-tax Act. This amendment is consequential to the amendment under clause 26 of this Bill

Clause 26 seeks to introduce a new section 107A in the Income-tax Act. This enables a company in which the public are not substantially interested to make an application to the Central Board of Direct Taxes for a reduction of the minimum amount of compulsory distribution of dividends required of it under section 104 of

the Act, if the company considers that due to the current requirements for the development of its business, it would not be advisable or possible for it to distribute any dividend larger than that which has been declared or is proposed to be declared by it. The Central Board of Direct Taxes are authorised to reduce the minimum amount of compulsory distribution by an amount not exceeding 20 per cent of the statutory percentage of the distributable income of the company.

Clause 27 seeks to amend section 109 of the Income-tax Act. The amendments are consequential to the insertion of section 107A under clause 26, and the exclusion of Indian companies (in which the public are not substantially interested) engaged in the manufacture or processing of goods, or mining, etc. from the purview of section 104 (*vide* clause 23 of this Bill).

Clause 28 seeks to amend section 114 of the Income-tax Act. The effect of this is that in respect of long-term capital gains (*i.e.*, gains other than 'short-term' capital gains) relating to lands or buildings, tax will be charged in the case of assesseees other than companies at 75 per cent. of the average rate of income-tax and super-tax applicable to their total income. In respect of other long-term capital gains, tax will be charged on such assesseees at 50 per cent. of the average rate of income-tax and super-tax applicable to their total income.

Clause 29 seeks to amend section 115 of the Income-tax Act. The effect of this amendment is that in the case of a company whose total income includes any long-term capital gains (*i.e.*, capital gains relating to capital assets held for more than one year), super-tax on long-term capital gains relating to any buildings or lands or any rights in buildings or lands will be chargeable at 15 per cent. and on any other long-term capital gains it will be chargeable at 5 per cent.

Clause 30 seeks to substitute the provisions of section 132 of the Income-tax Act. Under the new provisions, if the Commissioner of Income-tax has reason to believe (from information in his possession) that an assessee has failed to produce the books of account or documents required to be produced by him, or is not likely to comply with a requisition for the production of books of account or documents relevant for the proceedings under the Income-tax Act, or has money or any other articles disproportionate to his known sources of income (particulars whereof would be relevant for proceedings under the Income-tax Act), he may then

authorise the Inspecting Assistant Commissioner or the Income-tax Officer to make a search for any such books of account or documents in any premises and seize them and also to make an inventory of the articles or things (including moneys) referred to above.

Clause 31 seeks to introduce a new section 133A in the Income-tax Act, enabling the Income-tax Officer or any Inspector of Income-tax authorised by him in this behalf to enter an assessee's place of business and to inspect any books of account and documents, to make extracts thereof and to place identification marks thereon.

Clause 32 seeks to omit section 137 of the Income-tax Act, which prohibits the disclosure of any information contained in the assessment records of an assessee.

Clause 33 seeks to substitute the provisions of section 138 of the Income-tax Act. Under the new provision, any member of the public may make an application to the Commissioner of Income-tax in the prescribed form, accompanied by the prescribed fee for the supply to him of information relating to any assessee. The Commissioner is authorised to supply the information asked for if he is satisfied that there are no circumstances justifying its refusal.

Clause 34 seeks to insert a new section 140A in the Income-tax Act, requiring assessee who have furnished their returns of income to pay the tax due on the basis of that return (as reduced by any tax paid previously) within one month from the date of furnishing the return. The liability to pay the tax on self-assessment basis arises only where the tax payable on the basis of the return exceeds five hundred rupees. If an assessee does not pay the tax within the said period, he will be liable to a penalty not exceeding 50 per cent. of the tax which was payable.

Clause 35 seeks to omit section 141A of the Income-tax Act.

Clause 36 seeks to amend section 156 of the Income-tax Act. The amendment is consequential to the amendment sought to be made under clause 44 of this Bill.

Clause 37 seeks to amend section 209 of the Income-tax Act. The amendment is purely of a drafting nature.

Clause 38 seeks to amend section 246 of the Income-tax Act to provide an assessee the right of an appeal to the Appellate Assistant Commissioner against an order by the Income-tax Officer imposing a penalty for a default in payment of tax due on self-assessment or a default in respect of making an annuity deposit,

Clause 39 seeks to amend section 254 of the Income-tax Act to enable an assessee in whose case capital gains have been computed with reference to the fair market value of a capital asset as on the date of its transfer (*vide* clause 13 of this Bill) to have any dispute relating to the valuation referred to valuers for arbitration, at the stage of appeal before the Appellate Tribunal.

Clause 40 seeks to amend section 271 of the Income-tax Act to provide that where the income returned by an assessee is less than 90 per cent. of the assessed income, the assessee shall be deemed to have concealed his income or furnished inaccurate particulars thereof and be liable to penalty accordingly, unless he furnishes evidence to prove his *bona fides* in the matter.

Clause 41 seeks to amend section 277 of the Income-tax Act relating to punishment of a person on conviction for making a false statement in any declaration, etc. made in proceedings under the Income-tax Act. It substitutes for the existing provision for simple imprisonment for 6 months or a fine of Rs. 1,000 or both, a provision for rigorous imprisonment for a minimum term of 6 months (unless there are adequate reasons to the contrary recorded in the judgment) and a maximum term of two years.

Clause 42 seeks to amend section 278 of the Income-tax Act relating to punishment of a person on conviction for abetment of a false return, etc. on the same lines as stated in the notes on clause 41 of this Bill.

Clause 43 seeks to omit section 280 of the Income-tax Act relating to punishment of a public servant for disclosing any particulars, the disclosure of which is prohibited by section 137 of the Act. This is consequential to omission of section 137 of the Act under clause 32 of this Bill.

Clause 44 seeks to introduce a new Chapter XXII-A in the Income-tax Act, containing provisions regarding annuity deposits by *resident* assessees. The persons liable to make the annuity deposits will be individuals who are citizens of India, Hindu undivided families, unregistered firms, associations of persons (other than a company or a co-operative society) and artificial juridical persons excluding corporations established by a Central, State or Provincial Act. Annuity deposits will be required to be made, compulsorily, in respect of the assessment year 1964-65 and subsequent assessment years. Assesseees will also be required to make deposits in advance in each financial year in respect of the income assessable for the

assessment year next following that financial year. The amount of the annuity deposits will be calculated on the "adjusted total income" of an assessee at the rates prescribed in the Second Schedule to this Bill. The term 'adjusted total income' means the total income reduced by arrears of salaries, balances in a provident fund transferred to the credit of an employee participating in a recognised provident fund and share of income from an unregistered firm or an association of persons where such firm or association is liable to make an annuity deposit. In addition, in respect of the assessment year 1964-65, the full amount of salary income earned during the previous year will be excluded in computing the afore-said 'adjusted total income' for determining the amount of the annuity deposit required to be made for the said assessment year. This is because salary income earned during the financial year 1963-64 is assessable for the assessment year 1964-65 under the provisions of the Finance Act, 1963 [*vide* sub-clause (2) of clause 2 of this Bill].

Under the provisions of the Second Schedule to this Bill, an assessee whose total income does not exceed Rs. 15,000 is not liable to make any deposit.

Annuity deposits will be repayable to assessees in 10 equated annual instalments together with interest thereon at the rate or rates notified by the Central Government in the Official Gazette.

The amount of the annuity deposit which an assessee is liable to make for an assessment year will be allowed as a deduction in computing his total income under the Income-tax Act for that assessment year. The amount of annuity due to a depositor in any year will be included in his total income for that year.

In respect of income assessable for the assessment year 1964-65, the deposits are required to be made latest by the 31st March, 1965. Advance annuity deposits are required to be made within the time allowed by the Income-tax Officer in the notice issued by him to the assessee in this behalf.

In deducting tax at source from salary income, the calculation will be made after deducting from such income the amount of annuity deposit which the assessee is liable to make.

If annuity deposits are not made within due time, the assessee will be liable to a penalty not exceeding 50 per cent. of the amount which he was liable to deposit. Any arrears of this deposit are liable to be recovered under the provisions of the Income-tax Act like any arrears of tax.

The Central Government has been empowered to frame a scheme making detailed provisions for the implementation of the scheme of annuity deposits. The scheme will, *inter alia*, contain provisions as to the manner in which and intervals at which annuities shall be paid, the authorities by or through whom deposits will be collected or by whom annuities may be issued, etc.

Clause 45 seeks to substitute the provisions of section 287 of the Income-tax Act. It enables the Central Government to publish the names of any assesseees or any particulars relating to assessment proceedings in their case if it considers it necessary or expedient, in the public interest, to do so. It provides that such publication as respects imposition of a penalty or a conviction for an offence connected with proceedings under the Income-tax Act, can be made only after the expiry of the time for filing or the disposal of the first appeal filed against such penalty or conviction.

Clause 46 seeks to amend section 293 of the Income-tax Act. This amendment is of a drafting nature.

Clause 47 seeks to amend section 295 of the Income-tax Act which enables the Board to frame rules for carrying out the purposes of the Income-tax Act. The amendment is consequential to the proposed amendment to section 37 of the Income-tax Act under clause 9 of this Bill.

Clause 48 seeks to omit the Fifth Schedule to the Income-tax Act. This is consequential to the proposed amendment to section 99 of the Income-tax Act exempting companies from super-tax on their income from dividends (*vide* clause 21 of this Bill).

Clause 49 seeks to amend the Estate Duty Act, 1953.

Sub-clause (a) seeks to amend section 5A of the Act. The effect of this amendment is that estate duty will be leviable in respect of agricultural lands situate in the territories comprised in the State of Orissa. The amendment is being made in view of the Resolution dated 23rd September, 1963 passed by the State Legislature under terms of article 252 of the Constitution authorising the Parliament to regulate matters specified in the Estate Duty Act in relation to agricultural lands situated in the State of Orissa. The amendment will take effect from 23rd September, 1963.

Sub-clauses (b) and (c) seek to amend sections 33 and 34 of the Act. These amendments will have the effect of exempting from estate duty the principal value of one house or part of a house exclusively used by the deceased for his residence. If such house

is situated in a place with a population exceeding 10,000, the amount to be excluded under these provisions from the principal value of the estate of the deceased will be limited to Rs. 1 lakh.

Sub-clause (d) seeks to amend section 78 of the Act. This amendment is consequential to the amendment under sub-clause (e).

Sub-clause (e) seeks to substitute section 80 of the Act by two sections, namely, sections 80 and 80A. The effect of this amendment is that the prohibition on the disclosure of information contained in the records of estate duty proceedings under the existing section 80 of the Act will be abolished. Any member of the public who makes an application to the Controller for information relating to any assessment made under the Act will be enabled to obtain the information if the Controller is satisfied that there are no circumstances justifying its refusal. The Central Government will also be enabled to publish the names of any accountable persons and any other particulars relating to any proceedings under the Act if it considers such publication to be necessary or expedient in the public interest. However, the publication under this provision in respect of any penalty imposed under the Act can be made only after the expiry of the time for making an appeal to the Appellate Controller or after the disposal of an appeal presented before him, as the case may be.

Sub-clause (f) seeks to substitute the rate schedule of estate duty contained in Part I of the Second Schedule to the Act by a new rate schedule.

Clause 50 seeks to amend the Wealth-tax Act, 1957.

Sub-clause (a) seeks to exempt from wealth-tax the value of one house or part of a house belonging to the assessee and exclusively used by him for residential purposes. If such house is situated in a place with a population exceeding 10,000 and the value thereof exceeds Rs. 1 lakh, the amount to be exempted will be limited to Rs. 1 lakh.

Sub-clause (b) seeks to omit section 42 of the Act which prohibits the disclosure of information contained in any record of proceedings under the Act.

Sub-clause (c) seeks to substitute section 42A of the Act by a new provision enabling the Central Government to publish the name of any assessee and any particulars relating to any proceedings under the Act in respect of such assessee if it considers it necessary or expedient in the public interest to do so. However,

the publication of any information as to any penalty imposed or any conviction for any offence relating to any proceedings under the Act can be made only after the expiry of the time-limit for making the first appeal or the disposal of the first appeal, as the case may be.

This clause also seeks to substitute section 42B of the Act by a new provision enabling the Commissioner to supply to any member of the public at his request any information relating to any assessee in respect of any assessment made under the Act, if the Commissioner is satisfied that there are no such circumstances justifying the refusal of such information.

Sub-clause (d) seeks to amend section 43 of the Act. The amendment is consequential to the amendment under sub-clause (c).

Sub-clause (e) seeks to substitute the rate schedules of wealth-tax contained in Part I of the Schedule to the Wealth-tax Act by new rate schedules for individuals and Hindu undivided families.

Clause 51 seeks to amend the Expenditure-tax Act, 1957.

Sub-clause (i) seeks to omit some of the provisions contained in section 5 of the Act relating to exemptions of certain types or items of expenditure from expenditure-tax.

Sub-clause (ii) seeks to amend section 6 of the Act relating to the deductions to be made in computing the taxable expenditure. Some of the items of deductions under this section, such as expenditure on marriages and the basic allowance admissible to individuals and Hindu undivided families are sought to be omitted.

Sub-clause (iii) seeks to omit section 38 of the Act which prohibits the disclosure of information contained in the record of any proceedings under the Expenditure-tax Act.

Sub-clause (iv) seeks, *inter alia*, to substitute the provisions contained in section 38A of the Act by new provisions enabling the Central Government to publish the names of any assessee or any particulars relating to any proceedings in their cases under the Act if it considers it necessary or expedient in the public interest to do so. Such a publication in respect of any penalty imposed or any conviction for any offence under the Act can be made only after the expiry of the time limit for filing the first appeal or the disposal of the first appeal, as the case may be.

It also seeks to substitute the provisions contained in section 38B of the Act by a new provision enabling the Commissioner to supply to any member of the public, at his request, any information relating to any assessee in respect of any assessment made under

the Act. Such information will be supplied if the Commissioner is satisfied that there are no circumstances justifying its refusal.

Sub-clause (v) seeks to amend section 39 of the Act. This amendment is consequential to the amendment under sub-clause (iv).

Sub-clause (vi) seeks to substitute the rate schedule of expenditure-tax contained in the Schedule to the Act by a new rate schedule. For the assessment years 1964-65 and 1965-66, the maximum rate of expenditure-tax will be 15 per cent. and it will be attracted on taxable expenditure exceeding Rs. 72,000. From the assessment year 1966-67 onwards, the maximum rate will be 20 per cent. which will be attracted on taxable expenditure exceeding Rs. 84,000. Under the revised rate schedule, the first Rs. 36,000 of taxable expenditure will not be chargeable to expenditure-tax. This exemption takes the place of the basic allowance available to individuals and Hindu undivided families under clause (h) of section 6(1) of the Act which is sought to be withdrawn by the amendment under sub-clause (ii) above.

Clause 52 seeks to amend the Gift-tax Act, 1958.

Sub-clause (a) seeks to amend clause (viii) of section 5(1) of the Act. The effect of this is that the exemption in respect of gifts by an individual to his or her spouse will be reduced from the existing maximum of Rs. 1 lakh in value in the aggregate in one or more previous years to Rs. 50,000.

Sub-clause (b) seeks to insert a new section 6A in the Act. The effect of this is that where an assessee has made taxable gifts to the same donee during the relevant previous year and during any one or more of the four previous years immediately preceding such previous year, the value of the taxable gifts made to the same donee during the said four years will be aggregated with the value of the taxable gifts made by the assessee during the relevant previous year. The value of taxable gifts made to the same donee in the earlier years before 1st April, 1963 will be taken into account in the assessment of the assessee only for rate purposes. Taxable gifts made to the same donee in the earlier years after 1st April, 1963 will be taken into account both for rate purposes and charging gift-tax on the assessee for the relevant assessment year, but any gift-tax paid by the assessee for any earlier assessment year in respect of the value of such taxable gift to the same donee will be allowed as a deduction in computing the assessee's liability to gift-tax.

Sub-clause (c) seeks to amend sub-section (2) of section 32 of the Act relating to the charging of simple interest at 4 per cent. per annum from an assessee who fails to pay the gift tax demanded from him during the period allowed in the notice of demand. The effect of the amendment is that if the amount on which interest was payable under the aforesaid sub-section has been reduced on an appeal, reference or revision or an order of rectification of a mistake, the interest payable by the assessee shall be reduced accordingly.

Sub-clause (d) seeks to amend sub-section (5) of section 34 of the Act. This amendment is of a drafting nature.

Sub-clause (e) seeks to omit section 41 of the Act which prohibits the disclosure of information contained in any record of any proceedings relating to gift-tax.

Sub-clause (f) seeks, *inter alia*, to substitute section 41A of the Gift-tax Act by a new provision, enabling the Central Government to publish the names of any assesseees and any particulars relating to any proceedings under this Act in respect of such assesseees if it considers it necessary or expedient in the public interest to do so. However, such publication as to any penalty imposed or any conviction for any offence connected with any proceedings under this Act can be made only after the expiry of the time limit for filing the first appeal against the penalty or conviction or of the disposal of the first appeal, as the case may be.

It also seeks to substitute section 41B of the Act by a new provision enabling the Commissioner to supply to any member of the public at his request any information relating to any assessee in respect of any assessment made under the Act, if the Commissioner is satisfied that there are no circumstances justifying the refusal of such information.

Sub-clause (g) seeks to amend section 42 of the Act. This amendment is consequential to the amendment under sub-clause (f).

Sub-clause (h) seeks to substitute the Schedule to the Act containing the rate schedule of gift-tax by a new rate schedule.

Clause 53 seeks to revive the levy of expenditure-tax under the Expenditure-tax Act, 1957 with effect from the 1st April, 1964.

Clause 54 seeks to amend, retrospectively, the provision contained in paragraph A of Part I of the First Schedule to the Finance Act, 1963 relating to marginal relief in respect of the levy of additional surcharge on income-tax.

Clause 55 seeks to provide that super profits tax under the Super Profits Tax Act, 1963, shall not be charged for any assessment year commencing on or after 1st April, 1964 in respect of the chargeable profits of any company.

Clause 56, read with the Third Schedule, seeks to increase the basic import duties on certain items. The changes are:—

- (i) the duty on caustic soda is proposed to be raised from 40 per cent. (Standard) and 30 per cent. (Preferential) to 80 per cent. (Standard) and 70 per cent. (Preferential). The intention is to restore the incidence of duty which was reduced with effect from 1st September, 1963 because of a reduction in the tariff value;
- (ii) the duty on high carbon or spring steel wire is proposed to be raised by 20 per cent. *ad valorem* as a measure of assistance to the indigenous manufacturers; and
- (iii) in the case of fruits dried (salted and all other kinds), not otherwise specified, specific rates of duty are being proposed for the major varieties, while maintaining the preferential margin of 10 per cent. This will facilitate their assessment to duty. As regards other varieties, the duty is proposed to be raised from 50 per cent. (Standard) and 40 per cent. (Preferential) to 60 per cent. (Standard) and 50 per cent. (Preferential).

Clause 57 seeks to continue up to the 31st day of March, 1965 the existing surcharge on customs duties.

Clause 58 seeks to continue up to the 30th day of April, 1965 the existing provision for the levy of a regulatory duty of customs.

Clause 59 seeks to maintain for another year the *status quo* in regard to commitments under the General Agreement on Tariffs and Trade.

Clause 60—

Sub-clause (1) (i) seeks to make certain changes in the definition of manufacture.

Sub-clause (1) (ii) seeks to bring certain operations in relation to cotton yarn under excise control.

Sub-clause (2) (a) seeks to modify the rates of duty on certain value categories of cigarettes.

Sub-clause (2) (b) seeks to raise the rate of duty on 'Dispersed organic pigments' ordinarily used in textile printing.

Sub-clause (2) (c) seeks to levy duty on 'Sodium silicate'.

Sub-clause (2) (d) makes certain changes in the tariff description of the item relating to Cosmetics and toilet preparations.

Sub-clause (2) (e) seeks to reduce the number of sub-items under this item to two and also to make consequential changes in the existing rates of duty.

Sub-clause (2) (f) seeks to recast the tariff description of the Item relating to Plastics to make its scope more precise

Sub-clause (2) (g) seeks to reduce the number of sub-items from ten to four and to re-group the varieties of paper and board accordingly.

Sub-clause (2) (h) seeks to raise the rate of duty on rayon and synthetic fibres and yarn.

Sub-clause (2) (i) seeks to re-define cotton yarn and to raise the rate of duty thereon.

Sub-clause (2) (j) seeks to increase the rate of duty on worsted woollen yarn of higher counts.

Sub-clause (2) (k) seeks to make some changes in the tariff description of Item 25 relating to Iron making it more comprehensive and also to raise the duty thereon.

Sub-clause (2) (l) seeks to modify the tariff description of Steel Ingots making it more comprehensive and also to raise the rate of duty thereon.

Sub-clause (2) (m) seeks to make some changes in the tariff description and re-grouping of the flat products of Iron and Steel and to increase the duty on semi-finished steel and manufactured steel in the form of bars, rods, plates, sheets, etc.

Sub-clause (2) (n) seeks to make the tariff description of Item 27 more comprehensive by including therein extruded shapes and sections of Aluminium.

Sub-clause (2) (o) seeks to make some changes in the tariff description of electric wires and cables assessable at the higher rate.

Sub-clause (2) (p) seeks to amend Item 34 providing for a separate sub-item for Tractors and clarifying that certain specialised material handling equipment will pay duty only on the chassis.

Sub-clause (2) (q) seeks to make some changes in the tariff description of Item 36 relating to Footwear.

Clause 61 seeks to levy a special duty of excise up to the 31st day of March, 1965, on certain goods chargeable with a duty of excise under the Central Excises Act.

Clause 62 proposes to re-enact up to the 30th day of April, 1965, the power to levy a regulatory duty of Excise at the rate of 15 per cent. of the value of the goods.

Clause 63 like section 29 of the Finance Act, 1963, provides that salt shall be duty free for another year.

Clause 64 seeks to amend the definition of the terms 'Narcotic drug' and 'Opium' so as to make it self-contained for the purpose of levy of duty under the Medicinal and Toilet Preparations (Excise Duties) Act. It also seeks to replace the existing Schedule to this enactment so as to prescribe higher rates of duty for Allopathic preparations not containing known active ingredients in therapeutic quantities and which are capable of being consumed as ordinary alcoholic beverages in order to treat them on par with certain similar Ayurvedic preparations and to charge to duty all medicinal preparations containing opium, Indian hemp or other narcotic drugs irrespective of whether they are patent or proprietary or not.

Clause 65.—Following the amendment in clause 54 regarding the amount of additional surcharge payable for 1963-64, this clause provides for the refund of the Compulsory Deposit in excess of the additional surcharge payable for that year.

It also allows the option to claim a refund of the Compulsory Deposit relating to the advance tax paid in 1963-64 for the assessment year 1964-65.

FINANCIAL MEMORANDUM

INCOME-TAX

Some of the provisions contained in the Finance Bill, 1964 will result in an increase in the workload on the Income-tax Department. Instances of these provisions are the proposed introduction of the Annuity Deposit Scheme in the case of individuals, Hindu undivided families, unregistered firms, etc. whose total income exceeds Rs. 15,000, charging of tax on capital gains in respect of bonus shares on accrual basis, amendment of certain provisions of the Income-tax Act with a view to strengthening the existing machinery for countering tax evasion, the re-introduction of the levy of expenditure-tax and the reduction in the basic exemption limit from Rs. 2 lakhs and Rs. 4 lakhs to Rs. 1 lakh and Rs. 2 lakhs in the cases of individuals and Hindu undivided families respectively for the purpose of levy of wealth-tax.

The aforesaid measures will necessitate the employment of an additional number of officers and other staff. The expenditure on this account together with the incidental expenses on administration is estimated at about Rs. 10 lakhs as indicated herein below.

Requirement of personnel and finance:

	No.	Annual emoluments	Cost Rs.
I. Officers—			
Commissioner of Income-tax	1	1 × Rs. 20,400	20,400
Assistant Commissioners	5	5 × Rs. 14,400	72,000
Income-tax Officers (Cl. I)	40	40 × Rs. 5,400	2,16,000
II. Staff—			
Inspectors	20	20 × Rs. 2,880	57,600
Supervisors	5	5 × Rs. 4,320	21,600
Headclerks	23	23 × Rs. 3,000	69,000
Stenographers	6	6 × Rs. 1,800	10,800
Upper Division Clerks	170	170 × Rs. 1,800	3,06,000
Steno-typists	40	40 × Rs. 1,680	67,200
Lower Division Clerks	53	53 × Rs. 1,500	79,500
III. Incidental expenses—			
Incidental expenses including Class IV staff			1,00,000
TOTAL			10,20,100
or say			10,00,000

CENTRAL EXCISE

The Bill seeks to bring certain operations like sizing of cotton yarn with the aid of power or wrapping or winding it on beams, cones, pirns, bobbins, etc. under excise purview. It also seeks to enhance the surcharges leviable on certain varieties of cotton fabrics on account of the different processes undergone by them. These and certain other changes would mean some addition to the volume of work. Further, the Bill seeks to levy a fresh duty on Sodium Silicate of which there are upwards of one hundred factories, all of which would have to be brought under excise control.

All this will necessitate the employment of some additional staff. The increase in staff together with incidental expenses of administration is estimated to cost Rs. 4 lakhs.

Requirements of personnel and finance:

<i>A. Officers :—</i>		No.	Annual emoluments	Cost
			Rs.	Rs.
1. Deputy Collectors	. . .	2	2 × 15,000	30,000
2. Assistant Collectors	. . .	4	4 × 8,880	35,520
3. Superintendents—				
Class I		4	4 × 8,880	35,520
Class II		4	4 × 7,056	28,224
<i>Staff—</i>				
Dy. Supdts. (Executive)	. . .	20	20 × 5,775	1,15,500
Inspectors	. . .	20	20 × 3,746	74,920
Dy. Supdts. (M)	. . .	4	4 × 4,710	18,840
Steno-typists	. . .	10	10 × 2,044	20,440
C. Incidental expenses including contingencies, etc.	Class IV			40,000
			TOTAL	3,98,964
			or Rs.	4 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

New section 280W proposed to be inserted by clause 44 provides that the Central Government shall, by notification in the Official Gazette, frame one or more schemes to be called annuity deposit scheme or schemes in relation to annuity deposits. The various matters which among others may be provided for in the scheme have been specified in items (a) to (g) of sub-section (2) of that new section. Clause (dd) of sub-section (2) of section 295 inserted by clause 47 empowers the Board to determine the extent to, and the conditions subject to, which any expenditure referred to in sub-section (3) of section 37 may be allowed.

The aforesaid matters are matters of procedure and administrative detail. It is hardly practicable for these matters of detail or procedure to be provided in the Bill itself. The delegation of legislative power is of a normal character.

BILL No. 15 OF 1964

A bill to impose a special tax on the profits of certain companies.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

Short
title
and
extent.

1. (1) This Act may be called the Companies (Profits) Surtax Act, 1964.

(2) It extends to the whole of India.

5

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) “assessee” means a person by whom surtax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his chargeable profits or of the amount of refund due to him or of the chargeable profits of any other person in respect of which he is assessable or of the amount of refund due to such other person;

(2) “assessment” includes re-assessment;

(3) “assessment year” means the period of twelve months commencing on the 1st day of April, every year;

(4) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(5) “chargeable profits” means the total income of an assessee computed under the Income-tax Act, 1961 for any previous year or years, as the case may be, and adjusted in accordance with the provisions of the First Schedule;

20 43 of 1961.

(6) “Income-tax Act” means the Income-tax Act, 1961;

43 of 1961.

(7) “prescribed” means prescribed by rules made under this Act;

25

(8) “statutory deduction” means an amount equal to ten per cent. of the capital of the company as computed in accordance with the provisions of the Second Schedule, or an amount of two hundred thousand rupees, whichever is greater:

Provided that where the previous year is longer or shorter than a period of twelve months, the aforesaid amount of ten per cent. or, as the case may be, of two hundred thousand rupees shall be increased or decreased proportionately:

5 Provided further that where a company has different previous years in respect of its income, profits and gains, the aforesaid increase or decrease, as the case may be, shall be calculated with reference to the length of the previous year of the longest duration; and

10 (9) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. (1) Every Director of Inspection, Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant
15 Commissioner of Income-tax and Income-tax Officer shall have the like powers and perform the like functions, under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act will be the same as that he has under the Income-tax Act.

20 (2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant
25 Commissioner in the exercise of his appellate functions.

(3) Every Income-tax Officer, employed in the execution of this Act, shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner under whose
30 jurisdiction he performs his functions.

4. Subject to the provisions contained in this Act, there shall be charged on every company for every assessment year commencing
on and from the first day of April, 1964, a tax (in this Act referred to as the surtax) in respect of so much of its chargeable profits of the
35 previous year or previous years, as the case may be, as exceed the statutory deduction, at the rate or rates specified in the Third Schedule.

5. (1) In the case of every company whose chargeable profits assessable under this Act exceeded during the previous year the
40 amount of statutory deduction, its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, such person, shall

Tax
authorities.

Charge
of tax.

Return of
chargeable
profits.

furnish a return of the chargeable profits of the company during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, before the 30th day of September of the assessment year :

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return. 5

(2) In the case of any company which in the Income-tax Officer's opinion is assessable under this Act, the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, upon such person, requiring him to furnish within thirty days from the date of service of the notice a return of the chargeable profits of the company during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed : 10 15

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return. 20

(3) Any assessee who has not furnished a return during the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made. 25

Assessment.

6. (1) For the purposes of making an assessment under this Act, the Income-tax Officer may serve on any person who has furnished a return under sub-section (1) of section 5 or upon whom a notice has been served under sub-section (2) of section 5 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or evidence as the Income-tax Officer may require for the purposes of this Act and may from time to time serve further notices requiring the production of such further accounts or documents or other evidence as he may require. 30 35

(2) The Income-tax Officer, after considering such accounts, documents or evidence, if any, as he has obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the chargeable 40

profits and the amount of the surtax payable on the basis of such assessment.

7. (1) The Income-tax Officer, before proceeding to make an assessment under section 6 (in this section referred to as the regular assessment) may, at any time after the expiry of the period allowed under sub-section (1) or sub-section (2) of section 5 for the furnishing of the return and whether the return has or has not been furnished, proceed to make in a summary manner a provisional assessment of the chargeable profits and the amount of the surtax payable thereon.

(2) Before making such provisional assessment, the Income-tax Officer shall give notice in the prescribed form to the person on whom the provisional assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Income-tax Officer at any time within fourteen days of the service of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of the said fourteen days from the date of service of the notice referred to in sub-section (2), or earlier, if the assessee agrees to the proposed provisional assessment, the Income-tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of the assessment to the assessee :

25 Provided that assent to the amount of the provisional assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) There shall be no right of appeal against a provisional assessment made under this section.

30 (5) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under this section shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

8. If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 5 for any assessment year or to

Provisional
assessment.

Profits
escaping
assessment.

disclose fully and truly all material facts necessary for his assessment for any assessment year, chargeable profits for that year have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or

5

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that chargeable profits assessable for any assessment year have escaped assessment or have been 10 under-assessed or assessed at too low a rate or have been the subject of excessive relief under this Act,

he may, in cases falling under clause (a) at any time, and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all 15 or any of the requirements which may be included in a notice under section 5, and may proceed to assess or re-assess the amount chargeable to surtax, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section.

Penalties.

9. If the Income-tax Officer, in the course of any proceedings 20 under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under section 5, or to produce or cause to be produced the accounts, documents or other evidence required by the Income-tax Officer under sub-section (1) of section 6, or has concealed the particulars of the chargeable profits 25 or has furnished inaccurate particulars of such profits, he may direct that such person shall pay, by way of penalty, in addition to the amount of surtax payable, a sum not exceeding—

(a) where the person has failed to furnish the return required under section 5, the amount of surtax payable; 30

(b) in any other case, the amount of surtax which would have been avoided if the return made had been accepted as correct:

Provided that the Income-tax Officer shall not impose any penalty under this section without the previous authority of the Inspecting 35 Assistant Commissioner.

Opportunity
of being
heard.

10. No order imposing a penalty under section 9 shall be made unless the assessee has been given a reasonable opportunity of being heard.

Appeals
to the
Appellate
Assistant
Commis-
sioner.

11. (1) Any person objecting to the amount of surtax for which he is liable as assessed by the Income-tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty or fine imposed by the Income-tax Officer, or to the amount allowed by the Income-tax Officer by way of any relief under any provisions of this Act, or to any refusal by the Income-tax Officer to grant relief or to an order of rectification or amendment having the effect of enhancing the assessment or reducing the refund, or to an order refusing to allow the claim made by the assessee for a rectification under section 13 or amendment under section 14 may appeal to the Appellate Assistant Commissioner. 5

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within thirty days of the following date, that is to say— 15

(a) where the appeal relates to assessment or penalty or fine, the date of service of the notice of demand relating to the assessment or penalty or fine, or

(b) in any other case, the date on which the intimation of the order sought to be appealed against is served : 20

Provided that the Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(4) The Appellate Assistant Commissioner shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty: 25

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement. 30

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

Appeals to
Appellate
Tribunal.

12. (1) Any assessee aggrieved by an order passed by a Commissioner under section 16, or an order passed by an Appellate Assistant Commissioner under any provision of this Act, may appeal to the Appellate Tribunal against such order. 35

(2) The Commissioner may, if he objects to any order passed by the Appellate Assistant Commissioner under any provision of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be 5
filed within sixty days of the date on which the order sought to be
appealed against is communicated to the assessee or to the Commis-
sioner, as the case may be.

(4) The Income-tax Officer or the assessee, as the case may be,
on receipt of notice that an appeal against the order of the Appellate 10
Assistant Commissioner has been preferred under sub-section (1)
or sub-section (2) by the other party may, notwithstanding that he
may not have appealed against such order or any part thereof, within
thirty days of the receipt of the notice, file a memorandum of cross-
objections, verified in the prescribed manner, against any part of the 15
order of the Appellate Assistant Commissioner, and such memoran-
dum shall be disposed of by the Appellate Tribunal as if it were an
appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the
filing of a memorandum of cross-objections after the expiry of the 20
relevant period referred to in sub-section (3) or sub-section (4), if
it is satisfied that there was sufficient cause for not presenting it
within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed
form and shall be verified in the prescribed manner and, shall, 25
except in the case of an appeal referred to in sub-section (2) or a
memorandum of cross-objections referred to in sub-section (4), be
accompanied by a fee of one hundred rupees.

(7) Subject to the provisions of this Act, in hearing and making
an order on any appeal under this section, the Appellate Tribunal 30
shall exercise the same powers and follow the same procedure as it
exercises and follows in hearing and making an order on any appeal
under the Income-tax Act.

Recti-
fication
of
mistakes

13. (1) With a view to rectifying any mistake apparent from the
record, the Commissioner, the Income-tax Officer, the Appellate 35
Assistant Commissioner and the Appellate Tribunal may, of his, or
its, own motion or on an application by the assessee in this behalf,
amend any order passed by him or it in any proceeding under this
Act within four years of the date on which such order was passed.

(2) An amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned.

(4) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(5) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable.

15 14. Where as a result of any order made under section 154 or section 155 of the Income-tax Act, it is necessary to recompute the chargeable profits determined in any assessment under this Act, the Income-tax Officer may proceed to recompute the chargeable profits, and determine the surtax payable or refundable on the basis of such
20 recomputation and make the necessary amendment and the provisions of section 13 shall, so far as may be, apply thereto, the period of four years specified in sub-section (1) of that section being reckoned from the date of the order passed under the aforesaid sections of the Income-tax Act.

Other
amend-
ments.

25 15. Notwithstanding anything contained in clause (i) of section 109 of the Income-tax Act, in computing the distributable income of a company for the purposes of Chapter XI-D of that Act, the surtax payable by the company for any assessment year shall be deductible from the total income of the company assessable for that
30 assessment year.

Surtax
deductible
in
computing
distribut-
able
income
under
Income-tax
Act.

35 16. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

Revision
of orders
prejudicial
to
revenue.

(2) No order shall be made under sub-section (1)—

(a) to revise an order of re-assessment made under section 8,
or

(b) after the expiry of two years from the date of the order
sought to be revised. 5

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court. 10

Explanation.—In computing the period of limitation for the purposes of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Revision
of orders
by Com-
missioner.

17. (1) The Commissioner may, either of his own motion or on 15
an application by the assessee for revision, call for the record of any proceeding under this Act which has been taken by an Income-tax Officer or Appellate Assistant Commissioner subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, 20
not being an order prejudicial to the assessee, as he thinks fit.

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section 25
by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier :

Provided that the Commissioner may, if he is satisfied that the 30
assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Commissioner shall not revise any order under this section in the following cases— 35

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal; or 40

(b) where the order is pending on an appeal before the Appellate Assistant Commissioner; or

(c) where the order has been made the subject of an appeal to the Appellate Tribunal.

- 5 (5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

Explanation 1.—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

- 10 *Explanation 2.*—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.

18. The provisions of the following sections and Schedules of the Income-tax Act and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with such modifications, if any, as may be prescribed, as if the said provisions and the rules referred to surtax instead of to income-tax and super-tax :—

- 20 2(44), 131 to 136 (both inclusive), 138, 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220 to 229 (both inclusive), 231, 232, 233, 237 to 242 (both inclusive), 244, 245, 254 to 262 (both inclusive), 265, 266, 268, 269, 281, 282, 284, 287 to 293 (both inclusive), the Second Schedule and the Third Schedule :

- 25 Provided that references in the said provisions and the rules to the "assessee" shall be construed as references to an assessee as defined in this Act.

19. (1) Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.
- 30 (2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Income-tax Act.

20. If any person fails without reasonable cause to furnish in due time any return under sub-section (2) of section 5, or to produce, or cause to be produced, any accounts or documents required to be produced under section 6, he shall be punishable with fine which may extend to five hundred rupees, and with a further fine which may extend to ten rupees for every day during which the default continues.

False
state-
ments.

21. If a person makes in any return furnished under section 5, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both. 5

Abetment
of false
returns,
etc.

22. If a person makes or induces in any manner another person to make and deliver any account, statement or declaration relating to chargeable profits liable to surtax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six 10 months, or with fine which may extend to one thousand rupees, or with both.

Institution
of
proceed-
ings and
composi-
tion of
offences.

23. (1) A person shall not be proceeded against for an offence under section 20 or section 21 or section 22 or under the Indian Penal Code except at the instance of the Commissioner. 15 45 of 1860.

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 20 or section 21 or section 22.

Power to
make
exemp-
tion, etc.,
in
relation
to
certain
Union
territories.

24. If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any 20 difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of surtax in favour of any class of assesseees 25 or in regard to the whole or any part of the chargeable profits of any class of assesseees.

Power to
make
rules.

25. (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 30

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the form in which returns under section 5 may be furnished and the manner in which they may be verified; 35

(b) the form in which notice for making provisional assessment shall be given;

(c) the form in which appeals under section 11 or section 12 may be filed and the manner in which they shall be verified;

(d) the procedure to be followed on applications for rectification of mistakes and applications for refunds;

(e) any other matter which by this Act is to be, or may be, prescribed.

5 (3) The Central Government shall cause every rule made under this section to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so
10 laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without
15 prejudice to the validity of anything previously done under that rule.

26. Nothing contained in this Act shall apply to any company which has no share capital.

THE FIRST SCHEDULE

[See section 2(5)]

20 RULES FOR COMPUTING THE CHARGEABLE PROFITS

In computing the chargeable profits of a previous year, the total income computed for that year under the Income-tax Act shall be adjusted as follows:—

25 1. Income, profits and gains and other sums falling within the following clauses shall be excluded from such total income, namely:—

(i) any income chargeable under the Income-tax Act under the head "Capital gains";

30 (ii) any compensation or other payment as is referred to in clause (ii) of section 28 of the Income-tax Act;

(iii) profits and gains of any business of life insurance;

(iv) any income referred to in sub-section (2) of section 41 of the Income-tax Act;

35 (v) the amount of profits and gains derived from an industrial undertaking or hotel, on which under section 84 of the Income-tax Act income-tax is not payable;

(vi) income chargeable under the Income-tax Act under the head "Interest on securities" derived from any security of the Central Government issued or declared to be income-tax free or from any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(vii) any sum in respect of which a deduction of income-tax is allowed under the provisions of section 88 of the Income-tax Act;

(viii) income by way of dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India;

(ix) income by way of royalties received from Government or a local authority or any Indian concern;

(x) in the case of a non-resident company which has not made the prescribed arrangements for the declaration and payment of dividends within India, its income by way of any interest or fees for rendering technical services received from Government or a local authority or any Indian concern;

(xi) in the case of a banking company—

(a) any sum which during the previous year is transferred by it to a reserve fund under sub-section (1) of section 17 of the Banking Companies Act, 1949 or is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of that Act, not exceeding the amount required under the aforesaid provisions to be so transferred or deposited, as the case may be, or

(b) any sum transferred by it during the previous year to any reserves in India including reserves not shown as such in its published balance-sheet in so far as the sums transferred to such reserves are attributable to income chargeable to tax under the Income-tax Act and have not been allowed as a deduction in computing its total income under that Act and in so far as the aggregate of such sums does not exceed the highest of the aggregate of such sums, if any, so transferred during any one of the three years prior to the previous year, whichever is higher;

(xii) the amount of any deduction from the income-tax and super-tax chargeable on the total income allowed under

the annual Finance Act in connection with export of any goods or merchandise out of India or the sale by a manufacturer of any articles to any person who exports them out of India.

5 2. The balance of the total income arrived at after making the exclusions mentioned in rule 1 shall be reduced by—

10 (i) the amount of income-tax and super-tax payable by the company in respect of its total income under the provisions of the Income-tax Act after making allowance for any relief, rebate or deduction in respect of income-tax and super-tax to which the company may be entitled under the provisions of the said Act or the annual Finance Act, and after excluding from such amount—

15 (a) the amount of income-tax and super-tax, if any, payable by the company in respect of any income referred to in clause (i) or clause (ii) or clause (iii) or clause (viii) of rule 1 included in the total income;

20 (b) an amount equal to the amount by which the rebate of super-tax admissible to the company under the provisions of the annual Finance Act is, under the provisions of the said Act, reduced with reference to any amount of dividends distributed by the company during the previous year relevant to the assessment year;

25 (ii) in the case of a company which has been charged to tax in a country outside India on any portion of its income, profits and gains included in its total income as computed under the Income-tax Act, the tax actually paid in respect of such income, profits and gains in the said country in accordance with the laws in force in that country after allowance of every relief due under the said laws:

30 Provided that the aforesaid reduction shall not be allowed unless the assessee produces evidence of the fact of the payment of the aforesaid tax in that country.

35 3. The net amount of income calculated in accordance with rule 2 shall be increased by the aggregate of—

40 (i) the amount of any interest payable by the company in respect of its debentures or moneys referred to in clause (v) of rule 1 of the Second Schedule for the previous year relevant to the assessment year allowed as a deduction in computing its total income;

(ii) any expenditure incurred on account of commission, entertainment and advertisement, to the extent such expenditure, in the opinion of the Income-tax Officer, is excessive having regard to the circumstances of the case :

Provided that the previous authority of the Inspecting Assistant Commissioner is obtained for holding such expenditure to be excessive.

THE SECOND SCHEDULE

[See section 2(8)]

RULES FOR COMPUTING THE CAPITAL OF A COMPANY FOR THE PURPOSES OF 10 SURTAX

1. Subject to the other provisions contained in this Schedule, the capital of a company shall be the aggregate of the amounts, as on the first day of the previous year relevant to the assessment year, of—

(i) its paid-up share capital ; 15

(ii) its reserves, if any, created under the proviso (b) to clause (vib) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 or under sub-section (3) of section 34 of the Income-tax Act, 1961; 11 of 1922.
43 of 1961.

(iii) its other reserves as reduced by the amounts credited 20
to such reserves as have been allowed as a deduction in computing the income of the company for the purposes of the Indian Income-tax Act, 1922 or the Income-tax Act, 1961; 11 of 1922.
43 of 1961.

(iv) its debentures, if any; and 25

(v) any moneys borrowed by it from the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution which the Central Government may notify in this behalf in the Official Gazette or any moneys borrowed by it from any banking institution (not being a financial institution notified as aforesaid) 30
under an agreement providing for the repayment of such moneys during a period of not less than ten years, or any moneys borrowed from any person in a country outside India for the creation of any capital asset in India.

Explanation.—For the removal of doubts it is hereby declared 35
that any amount standing to the credit of any account in the books of a company as on the first day of the previous year relevant to the assessment year which is of the nature of item (5) or item (6) or item (7) under the heading “RESERVES AND SURPLUS” or of

1 of 1956.

any item under the heading "CURRENT LIABILITIES AND PROVISIONS" in the column relating to "LIABILITIES" in the "FORM OF BALANCE-SHEET" given in Part I of Schedule VI to the Companies Act, 1956 shall not be regarded as a reserve for the purposes of computation of the capital of a company under the provisions of this Schedule.

2. Where a company owns any assets the income from which in accordance with clause (iii) or clause (vi) or clause (viii) of rule 1 of the First Schedule is required to be excluded from its total income in computing its chargeable profits, the amount of its capital as computed under rule 1 of this Schedule shall be diminished by the cost to it of the said assets as on the first day of the previous year relevant to the assessment year in so far as such cost exceeds the aggregate of—

(i) any moneys borrowed [other than such moneys as are referred to in clause (v) of rule 1] and remaining outstanding as on the first day of the said previous year; and

(ii) the amount of any fund, any surplus and any such reserve as is not to be taken into account in computing the capital under rule 1.

Explanation 1.—A paid-up share capital or reserve brought into existence by creating or increasing (by revaluation or otherwise) any book asset is not capital for computing the capital of a company for the purposes of this Act.

Explanation 2.—Any premium received in cash by the company on the issue of its shares standing to the credit of the share premium account shall be regarded as forming part of its paid-up share capital.

Explanation 3.—Where a company has different previous years in respect of its income, profits and gains, the computation of capital under rules 1, 2 and 3 shall be made with reference to the previous year which commenced first.

3. Where after the first day of the previous year relevant to the assessment year the capital of a company as computed in accordance with the foregoing rules of this Schedule is increased by any amount during that previous year on account of increase of paid-up share capital or issue of debentures or borrowing of any moneys referred to in clause (v) of rule 1 or is reduced by any amount on account of reduction of paid-up share capital or redemption of any debentures or repayment of any such moneys, such capital shall be increased or reduced, as the case may be, by a sum which bears to that amount the same proportion as the number of days of the previous year

during which the increase or the reduction remained effective bears to the total number of days in that previous year.

4. Where a part of the income, profits and gains of a company is not includible in its total income as computed under the Income-tax Act, its capital shall be the sum ascertained in accordance with rules 1, 2 and 3, diminished by an amount which bears to that sum the same proportion as the amount of the aforesaid income, profits and gains bears to the total amount of its income, profits and gains.

THE THIRD SCHEDULE

(See section 4)

RATES OF SURTAX

1. On the amount by which the chargeable profits exceed the amount of the statutory deduction—

40 per cent. 15

Provided that where the total income of an assessee, being an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India, includes any income, profits and gains attributable to the business of generation and distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in paragraph 2, the assessee shall be entitled to a rebate equal to a sum of one-fifth of the amount which bears to the amount of the surtax payable by the assessee, the same proportion as the amount of the aforesaid inclusion bears to the amount of the total income of the assessee : 20 25

Provided further that if the Central Government, having regard to the stage of development of any industry and other relevant factors, considers it necessary or expedient so to do, it may, at any time by general or special order withdraw the benefit conferred by the preceding proviso in respect of the business of generation and distribution of electricity or of manufacture or production of any article specified in the said list or extend such benefit to any other business and such order shall have effect for the purposes of assessment under this Act for any such assessment year (not being the assessment year commencing on the first day of April, 1964) as may be specified in the said order. 30 35

2. The list of articles referred to in paragraph 1 shall be as follows :—

(1) Iron and steel (metal), ferro-alloys and special steels.

(2) Aluminium, copper, lead and zinc.

5 (3) Coal, lignite, iron ore and bauxite.

(4) Industrial machinery specified under the heading "8. Industrial Machinery", sub-heading "A. Major items of specialised equipment used in specific industries", of the First Schedule to the Industries (Development and Regulation) Act, 1951.

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(5) Boilers and steam generating plants, steam engines and turbines and internal combustion engines.

(6) Equipment for the generation, transmission and distribution of electricity, including transformers.

15 (7) Machine tools, precision tools, dies and jigs.

(8) Tractors and earth-moving machinery.

(9) Steel castings and forgings.

(10) Cement and refractories.

(11) Fertilisers.

20 (12) Paper and pulp.

(13) Tea, coffee and rubber.

25 (14) Component parts of the articles mentioned in items Nos. (4), (5), (6) and (8), that is to say, such parts as are essential for the working of the machinery referred to in items aforesaid and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose and are in complete finished form and ready for fitment

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to impose a special tax on companies (other than those which have no share capital) on their excess profits, namely, the amount by which the total income of a company as reduced by certain types of income and certain sums and the income-tax and super-tax payable by it exceeds a sum of ten per cent. of its capital, reserves and certain borrowed moneys or a sum of Rs. 2 lakhs, whichever is higher. The Notes on clauses explain the various provisions of the Bill.

T. T. KRISHNAMACHARI.

NEW DELHI;
The 29th February, 1964.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117
OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 3(16)-B/64, dated the 29th February, 1964 from Shri T. T. Krishnamachari, Minister of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill, recommends under article 117(1) and (3) of the Constitution of India, the introduction of the Companies (Profits) Surtax Bill, 1964 in the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

* * * * *

Notes on clauses

Clause 2 contains definitions of the various terms and expressions used in the clauses of the Bill.

Sub-clause (3) defines "assessment year" as being the period of twelve months commencing on the 1st day of April, every year.

Sub-clause (5) defines "chargeable profits" to mean the total income of the assessee for the previous year relevant to the assessment year as computed under the Income-tax Act, 1961 and adjusted in accordance with the provisions of the First Schedule.

Sub-clause (8) defines the term "statutory deduction" to mean an amount equal to ten per cent. of the capital of the company as computed in accordance with the Second Schedule or an amount of Rs. 2 lakhs, whichever is greater. The amount of the statutory deduction is required to be adjusted in relation to the length of the previous year, if such year is longer or shorter than a period of 12 months.

Sub-clause (9) provides that all words and expressions used in the Bill but not defined therein and defined in the Income-tax Act, 1961 shall have the same meanings as in that Act.

Clause 3 seeks to give jurisdiction in respect of surtax to the same authorities as have jurisdiction under the Income-tax Act, 1961.

Clause 4 seeks to make a provision for charging a tax named "surtax" on every company for the assessment year 1964-65 and subsequent assessment years on that amount of its chargeable profits during the previous year or the years which exceeds the amount of statutory deduction admissible to it at the rate or rates specified in the Third Schedule.

Clause 5—

Sub-clause (1) seeks to impose a liability on the principal officer of every company, and in the case of a non-resident company, also on the person who has been treated as its agent under section 163 of the Income-tax Act, 1961, to furnish a return of the chargeable profits of the company by the 30th day of September of the relevant assessment year, if such chargeable profits exceed the amount of the statutory deduction.

Sub-clause (2) seeks to enable the Income-tax Officer to issue a notice to a company requiring it to furnish a return of the chargeable profits within thirty days from the date of service of the notice.

Under both the sub-clauses, the Income-tax Officer has been authorised to extend the time for furnishing the return.

Sub-clause (3) seeks to enable an assessee who has not furnished the return within the time allowed or who having furnished the return discovers any omissions therein, to file a return or a revised return, as the case may be, at any time before the completion of the assessment.

Clause 6 provides that the Income-tax Officer may call for accounts, documents or other evidence from the assessee for the purpose of his assessment, and shall make the assessment after considering all the material so obtained by him.

Clause 7 enables the Income-tax Officer to make a provisional assessment of the chargeable profits of an assessee at any time after the expiry of the period allowed for filing a return, subject to the issue of a 14 days' notice to him inviting his objections, if any, to the proposed assessment. It has been provided that there shall be no right of appeal against such a provisional assessment and that the tax paid on the provisional assessment shall be deemed to have been paid towards the regular assessment.

Clause 8 relates to the assessment or re-assessment of chargeable profits which have escaped assessment or have been under-assessed etc. It provides that in the case of an omission or failure on the part of the assessee to file a return or to disclose fully and truly all the materials necessary for his assessment, such proceedings may be initiated at any time, and in other cases within four years of the end of the relevant assessment year.

Clause 9 seeks to make a provision for the imposition of a penalty on an assessee for his failure, without reasonable cause, to furnish a return of his chargeable profits or to produce the accounts, documents or evidence required by the Income-tax Officer, and for any concealment or deliberate furnishing of inaccurate particulars of his chargeable profits.

Clause 10 provides that the assessee shall be given a reasonable opportunity of being heard before any penalty under clause 9 is imposed upon him.

Clause 11 relates to appeals by the assessee to the Appellate Assistant Commissioner against any order passed by the Income-tax Officer.

Clause 12 relates to appeals to the Appellate Tribunal by assesseees or by the Income-tax Officer under the directions of the Commissioner of Income-tax against any order made by the Appellate Assistant Commissioner. It has been provided that in disposing of such appeals, the Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in disposing of any appeal under the Income-tax Act, 1961.

Clause 13 provides for the rectification of mistakes apparent from the record of any proceedings by the Commissioner of Income-tax, the Appellate Assistant Commissioner and the Appellate Tribunal, *suo motu* or at the instance of the assessee, within four years of the date on which the order sought to be rectified has been passed.

Clause 14 seeks to enable the Income-tax Officer to recompute the chargeable profits of the assessee in consequence of any order of rectification or amendment passed under section 154 or section 155 of the Income-tax Act, 1961, in relation to the relevant income-tax assessment of the assessee, within four years from the date of the latter order.

Clause 15 seeks to provide that the surtax payable by a company for a particular assessment year shall be deducted from its total income for that assessment year in computing its distributable income for the purposes of Chapter XI-D of the Income-tax Act, 1961.

Clause 16 enables the Commissioner to revise any orders passed by the Income-tax Officer which are prejudicial to revenue, within a period of two years from the date of the order sought to be revised.

Clause 17 enables the Commissioner to give relief to the assessee on revision of any orders passed by the Income-tax Officer or the Appellate Assistant Commissioner subordinate to him, either of his own motion or on an application by the assessee.

Clause 18 seeks to make applicable to the proceedings relating to surtax, certain provisions of the Income-tax Act, 1961 pertaining to various matters for which no separate provisions have been made in the Bill, e.g., issue and service of notice of demand, recovery of arrear tax dues, assessment proceedings in the case of non-resident through an agent, liability of directors or private companies in liquidation, reference to High Court, appeal to Supreme Court, etc. It also seeks to apply the provisions of the Income-tax (Certificate Proceedings) Rules, 1962 to the proceedings of recovery of arrears of surtax.

Clause 19 provides that all information contained in any statement or returns made by the assesseees or furnished in any proceeding under the Income-tax Act, 1961, may be used for the purposes of proceedings relating to surtax and *vice versa*.

Clauses 20 to 23 (both inclusive) relate to prosecution for various offences by way of failure to deliver returns without any reasonable cause, making of false statements, abetment of false returns, and the composition of such offences.

Clause 24 seeks to enable the Central Government to make an exemption, reduction in rate or other modification in respect of surtax in favour of any class of assesseees or in regard to the whole or any part of the chargeable profits of any class of assesseees in order to remove any difficulty or avoid any hardship that may arise as a result of application of surtax to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry.

Clause 25 seeks to enable the Central Board of Direct Taxes to make rules for carrying out the purposes of this enactment and in this behalf, *inter alia*, to prescribe various forms such as the form of return of chargeable profits.

Clause 26 seeks to exclude companies which have no share capital from the purview of surtax.

The First Schedule lays down rules for the computation of the chargeable profits. Under its provisions, 'chargeable profits' are to be computed by excluding from the assessee's total income (as computed under the Income-tax Act) certain items of income and sums which have been exempted from surtax; deducting from the balance amount the income-tax and super-tax payable by the company (subject to certain adjustments); and adding to the amount so arrived at, any interest payable by the assessee in respect of debentures, and specified loans referred to in rule 1(v) of the Second Schedule, and such amount of any expenditure on commission, entertainment and advertisement which may be considered by the Income-tax Officer (with the approval of the Inspecting Assistant Commissioner) to be excessive in the circumstances of the case.

The Second Schedule contains the rules for the computation of the capital of a company for the purpose of determining the amount of 'statutory deduction' admissible to a company. Under these rules, the capital of a company consists of the amounts, as on the first day of the relevant previous year, of its paid-up capital, reserves (including the reserves required to be created under the Indian Income-tax

Act, 1922 and the Income-tax Act, 1961 for entitlement to development rebate), debentures and specified loans. If a company possesses assets, the income from which is not taken into account in computing the chargeable profits under certain provisions of the First Schedule, such as investments in shares of companies, the cost thereof (subject to certain adjustments for borrowed moneys not included in the capital of the company) is required to be deducted from the capital aforesaid.

The Third Schedule lays down that surtax shall be charged at the rate of 40 per cent. of the amount by which the chargeable profits of a company for the relevant previous year exceed the amount of the statutory deduction admissible to it. It also provides that an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India shall be entitled to a rebate calculated at 20 per cent. of that part of the surtax which is attributable to any profits derived by it from the business of the generation and distribution of electricity or of the manufacture or production of any one or more of the articles specified in the list contained in the said Schedule. It also provides that the Central Government may, by issue of a notification in the Official Gazette, exclude any articles from or add any item to the said list for the purposes of an assessment for any assessment year subsequent to the assessment year 1964-65.

FINANCIAL MEMORANDUM

The Bill seeks to impose a new tax on all companies other than companies having no share capital. This tax will be administered by the Income-tax Department but its proceedings relating to assessment, collection and revision and appeals will be separate from that of income-tax. However, some incidental expenditure on the administration of the Act may be involved, the extent of which cannot be foreseen at present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 empowers the Board to make rules for carrying out the purposes of the Act. The matters in respect of which such rules may be made pertain to the form in which returns under section 5 may be furnished, the form in which notice for making provisional assessment shall be given, the form in which appeals under the Act may be filed and the procedure that may be followed on application for rectification of mistakes and application for refunds. The matters in respect of which rules will be made are matters of procedure, form or detail.

The delegation of legislative power is, therefore, of a normal character.

M. N. KAUL,
Secretary.

